DOCUMENT RESUME

ED 358 306 CE 063 844

TITLE A Working Woman's Guide to Her Job Rights. Leaflet 55.
INSTITUTION Women's Bureau (DOL), Washington, D.C.
PUB DATE Aug 92
NOTE 81p.; This guide updates ED 306 441.
PUB TYPE Guides - Non-Classroom Use (055)

EDRS PRICE MF01/PC04 Plus Postage.
DESCRIPTORS Adult Education; Age Discrimination; Apprenticeships; Comparable Worth; Dislocated Workers; *Employed Women; Employment; Employment Level; *Employment Practices; Equal Opportunities (Jobs); *Equal Protection; Ethnic Discrimination; *Federal Legislation; *Feminism; Guides; Handicap Discrimination; Job Layoff; Job Search Methods; Job Training; Justice; Labor Legislation; Personnel Policy; Racial Discrimination; *Retirement; Retirement Benefits; Salary Wage Differentials; Sex Discrimination; Sex Fairness; Vocational Education

ABSTRACT

This guide presents general information about protection and services provided under federal law that affect women's rights when seeking employment, while working, and when retiring. Section 1 discusses how women can assert their job rights. Section 2 focuses on getting the job. It considers federal laws that provide for employment services and training and education and discusses federal laws that protect workers from policies and practices that discriminate on the basis of sex, race, color, religion, national origin, age, or disability. Section 3 describes protection on the job by providing information on the following: minimum wage, overtime pay, and wage payment; equal pay; sex-based wage discrimination; promotions, training, and working conditions; pregnancy discrimination act; state maternity/parental leave laws; veterans' reemployment rights; sexual harassment; garnishment; unemployment insurance; assistance for dislocated workers; compensation for injuries; occupational safety and health; termination; union participation; and assistance for dependent care. Section 4 focuses on protection and services provided under federal law when women retire. It discusses social security, pensions, and personal plans. Throughout the guide, examples are provided, and information is present on what to do if confronted with that type of situation. Appendixes include addresses of federal and state agencies, sample complaint forms, and 20 references. (YLB)

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A Working Woman's Guide To Her Job Rights

U.S. Department of Labor
Office of the Secretary
Women's Bureau
August 1992

Leaflet 55

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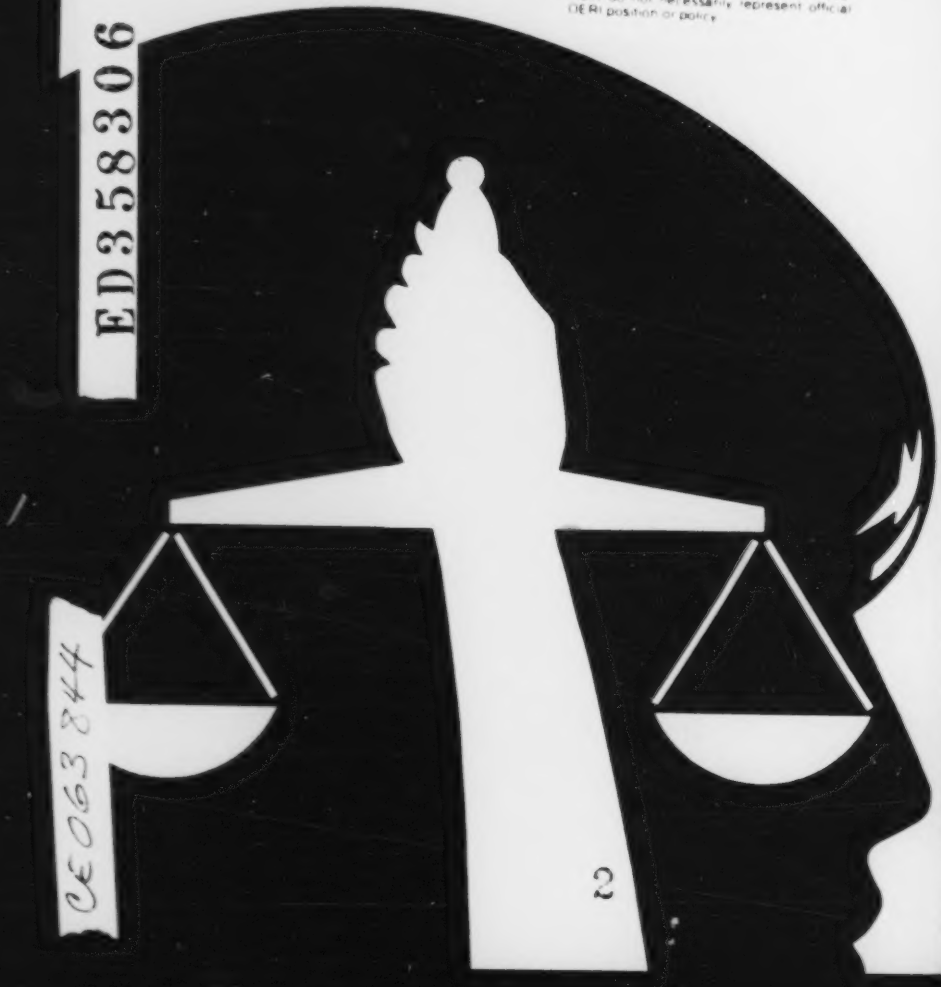

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A Working Woman's Guide To Her Job Rights

U.S. Department of Labor
Lynn Martin, Secretary

Women's Bureau
Elsie Vartanian, Director
August 1992

Leaflet 55

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Foreword

The numbers of women entering the labor force have increased considerably over the past two decades. Current statistics tell us that women now comprise almost 46 percent of the labor force and account for 2 of every 3 new workers.

The participation of women in the work force has begun to mirror that of men, that is, they are remaining in the labor force over an extended period of time rather than working intermittently. However, their work experiences and access to opportunities in the workplace are quite different from those of men, and even among themselves. Women are working in a wider range of occupations than ever before while they continue to juggle family and other responsibilities. The laws which affect their work experiences have become increasingly complex.

"A Working Woman's Guide To Her Job Rights" presents general information about protection and services provided under Federal law which affect women's rights when seeking employment, while working, and when retiring.

While we have thoroughly researched many aspects of Federal employment law and regulations, the information contained in this leaflet is intended as a general overview and does not carry the force of legal opinion. A closer look at State employment laws may reveal similar, and sometimes broader, coverage than Federal law; some areas of employment are governed exclusively by State laws. Information about State laws can be obtained through State departments of labor or departments of human resources.

Many women are not aware of their legal employment rights – rights which include equal access to all jobs for which they qualify, and equal treatment on the job. It is important for all working women to have the knowledge and information required to fully access employment opportunities and reach their full potential. We hope this publication will be a useful tool in their quest.

Elsie Vartanian
Director, Women's Bureau

How Women Can Assert Their Job Rights

The first step in asserting your legal rights is to know what those rights are. It is important to know which practices are prohibited by law, and to distinguish these from actions which may seem unjust, but which are not unlawful.

You should also keep in mind that an employer can take action against an employee for good cause. Laws that protect against discrimination based on race, color, sex, national origin, religion, age, or disability do not prevent an employer from discharging you if you are not doing your job; nor do they require employers to hire you if you are not qualified for the job.

You can resolve many problems associated with getting a job or coping with a particular job situation through discussion with personnel officers or supervisors. Informal problem solving is frequently the quickest method for settling a dispute; often the problem arises because of misunderstanding, lack of communication, or ignorance of the employee's rights. In many work establishments, informal conciliation is part of grievance procedures under collective bargaining agreements, personnel policies, or formal equal employment opportunity programs.

However, if you believe that you are being paid less than a legal wage, or are the victim of discrimination prohibited by law, you are entitled to file a complaint with the agency that has responsibility for enforcing the law. Procedures for making complaints vary; a telephone request is enough to set in motion an investigation into substandard wages or unequal pay, whereas a written complaint is necessary under some antidiscrimination laws.

If you feel that you are being treated unfairly, take care to document incidents to support a complaint. Written notes on what happened and

when, and who was there, are very useful in refreshing the memory and showing a pattern of unfair treatment.

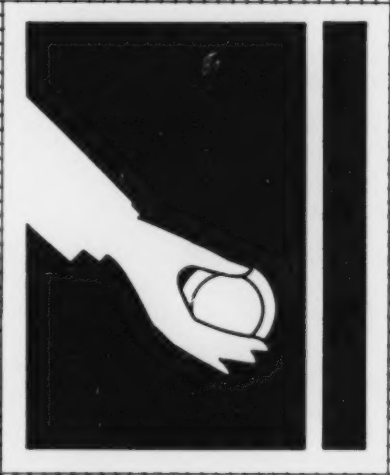
There are time limits on filing complaints, so it is important to act promptly. Information about time limits and procedures under the various laws is provided with each section of the guide. If you are unsure about how the law might apply to a specific situation, call the agency that handles those complaints to talk with compliance officers who are trained to provide information about filing complaints. Sample forms are included in Appendix C.

Addresses or telephone numbers of compliance agencies as well as agencies which administer laws on retirement or disability, for example, are listed in Appendix A.

In some instances different laws or complaint procedures apply to employees of Federal, State, or local government. Information on job rights is available from the employee's personnel office or often from an equal employment opportunity office.

Most agencies with enforcement or administrative responsibilities for Federal laws print pamphlets with information for consumers. Free copies of these materials are generally available from the agency upon request. Additional sources of assistance and information exist in the form of community based organizations that have information and referral, counseling, or legal assistance services. The local bar association, a State or local commission on women, or an information and referral center may be able to provide information about these resources.

Getting the Job



A number of Federal laws provide for services to assist jobseekers and protect workers from policies and practices which discriminate on the basis of sex, race, color, religion, national origin, age or disability. Similar laws at the State level may increase the scope of coverage, complement it, or operate in partnership with Federal legislation.

Employment Services

The United States Employment Service operates in partnership with State employment services to provide free counseling, testing, and job placement in major cities across the country. Established under the Wagner-Peyser Act, the State-operated employment service—called Job Service in most States—forms a national network of public employment offices that follow Federal guidelines. Many of these offices have job banks which maintain computerized listings of job vacancies in the particular geographic area, so jobseekers can match their skills to available jobs. Through screening and referral services, the Job Service also channels applicants into various training programs.

Job Service or Employment Service offices are listed in the telephone directory under State government listings. In most States they are part of the department of labor or human resources, or a separate employment security agency.

Training and Education

Apprenticeship. The national apprenticeship system is a Federal-State partnership established by the National Apprenticeship Act to encourage high standards for apprenticeship training and to promote the appren-

ticeship concept among business and industry. Apprenticeship is a system for teaching skilled trades and crafts through a combination of on-the-job training and classroom instruction. National standards approved by the Bureau of Apprenticeship and Training or State apprenticeship agencies govern the scope of work, courses of instruction, length of training, and amount of pay. A great advantage to apprenticeship training is that apprentices are paid while they learn. Typically an entering apprentice earns about half of the wage rate of a highly skilled fully qualified worker (journeyworker), and receives an increase about every 6 months. Upon completion of the program, the apprentice receives a certificate or card which shows that she or he has become a journeyworker in a specific occupation.

U.S. Department of Labor regulations published in May 1978 require sponsors of apprenticeship programs with more than five apprentices to take affirmative action to recruit women, as well as minorities, when these groups do not have a reasonable share of training opportunities.

In 1989 the Department of Labor established the Office of Work-Based Learning and began steps to expand the apprenticeship approach beyond its traditional bounds to a system of accredited work-based training programs in a broader range of industries and occupations.

The Bureau of Apprenticeship and Training, of the U.S. Department of Labor, State apprenticeship agencies, unions, and employers who operate apprenticeship programs can provide more information about apprenticeship opportunities.

Employment and Training Programs. The Job Training Partnership Act (JTPA), enacted in 1982, is the major Federal employment and training program in the United States. States have primary responsibility for program direction, monitoring, and administration. Local governments and private industry councils have equal authority in planning and implementing job training programs. These programs are designed to assist economically disadvantaged persons (those living at or below the poverty level) and those with serious barriers to employment (i.e., teenage parents and displaced homemakers) to be productive members of the labor force. Program activities include job search assistance, skills training, and on-the-job training. Support services may include child care, transportation, or referral to programs with other services.

Title IV-B of JTPA authorizes the Job Corps, a program, to serve severely disadvantaged youth 16 through 21 years of age. The program prepares young women and men for productive employment, and for entrance into vocational/technical schools, junior colleges or other institutions for further education and training. Enrollees are also provided food, housing, medical care, counseling, and other support services. The Nontraditional Employment for Women Act, enacted in 1991, amends the Job Training Partnership Act, to encourage a wider range of training and job

placement for women in occupations traditionally held by men.

The *Displaced Homemakers Self-Sufficiency Assistance Act*, enacted in 1990, authorizes grants to supplement the training and support service provided to displaced homemakers by State programs and statewide nonprofit organizations. The programs are to be closely coordinated with those under the Job Training Partnership Act and State vocational education programs. (See also, **Vocational Education**.)

Other job training programs are targeted for migrant and seasonal farm workers, Native Americans, and low income persons 55 years of age or over.

The State department of labor or human resources, the Job Service, or the local private industry council can provide information on employment and training opportunities under JTPA.

Vocational Education. Vocational education programs represent an important source of training for a variety of occupations. In 1990 the Carl D. Perkins Vocational and Applied Technology Education Act reauthorized grants to States, emphasizing academic and occupational skills needed to work in a technologically advanced society. A new "tech-prep" program can link students' high school vocational training with continued training at a community college or post-secondary technical school.

Of special interest to women is grant money for programs for displaced homemakers, single parents, and single pregnant women, and for career guidance and counseling programs to eliminate sex bias and stereotyping and to encourage the entry of women into nontraditional occupations. (See *Displaced Homemakers Self-Sufficiency Assistance Act* under **Employment and Training Programs**.)

Each State has to designate a sex equity coordinator to administer both the homemakers and sex equity programs and to assure that vocational education programs do not discriminate against women and girls, especially young women ages 14 to 25. These coordinators, located in the State department of education, have information about programs available in their States.

Federal Protections for Jobseekers

Several Federal laws protect workers from discrimination in the jobseeking process by prohibiting discrimination in recruitment, testing, referrals, and hiring.

Discrimination Based on Sex, Race, Color, Religion, and National Origin. *Title VII of the Civil Rights Act of 1964* is the principal law that protects workers from discrimination in employment. The act makes it unlawful to discriminate on the basis of sex, race, color, religion, or national origin in hiring or firing; wages; fringe benefits; classifying; referring, as-

signing, or promoting employees; extending or assigning facilities; training; retraining; apprenticeships; or any other terms, conditions, or privileges of employment. For example, it is unlawful for an employer to refuse to let certain persons file application forms, but to accept others; for a union or an employment agency to refuse to refer applicants to job openings; for a union to refuse membership or for an apprenticeship or other training program to refuse admission to an applicant, when the reason for the action is the individual's sex, race, color, religion, or national origin.

The Equal Employment Opportunity Commission (EEOC) has primary responsibility for enforcement of Title VII. Under EEOC guidelines on sex discrimination, it is a violation of Title VII to refuse to hire an individual based on stereotyped characteristics of the sexes or preferences of coworkers, the employer, clients, or customers; to label jobs as "men's jobs" and "women's jobs," or to indicate a preference or limitation based on sex in a help-wanted advertisement, unless sex is a bona fide occupational qualification (BFOQ) for the job. Sex is rarely a BFOQ. The guidelines also say that State protective labor laws that prohibit or limit the employment of women at certain times or in certain occupations, such as mining or bartending, are in conflict with and are superseded by Title VII, and therefore cannot be used as a reason for refusing to employ women.

As amended in 1972, Title VII covers most employers of 15 or more employees, public and private employment agencies, labor unions with 15 or more members, and joint labor-management committees for apprenticeship and training. Indian tribes are exempt as employers. Religious institutions are exempt with respect to employing persons of a particular religion, but are covered with respect to discrimination based on sex, race, color, or national origin.

The *Civil Rights Act of 1991* provides the right to a jury trial and to money damages in intentional employment discrimination cases, expanding greatly the available remedies. Although those who suffer from sex discrimination may now recover damages for the first time, these money damages, other than back pay, are allowable only up to a certain limit depending on the size of the employer's work force. For example, employers with between 15 and 100 employees may be ordered to pay up to $50,000 per each individual complainant; employers with 101-200, $100,000; employers with 201-500 employees, $200,000; and employers with over 500 employees, $300,000.

What To Do—The EEOC Complaint Process

If you think you have been treated unfairly in an employment situation and the reason for the action was your sex, race, color, religion,

or national origin, you may file a charge of discrimination with the Equal Employment Opportunity Commission. The charge form asks for your name and address; the name and address and other information about the employer, union, or employment agency; and a brief description of the discriminatory practice or action. You must file the charge within 180 days of the action you are complaining about. If there is a State or city fair employment practices (FEP) law offering comparable protection (most States have such FEP laws), the EEOC will send a copy of the charge to the agency that enforces the State or local law. If the State agency does not complete action on the complaint within 60 days, EEOC may proceed to process the charge. If there is a comparable State or local FEP law, you must file a charge with EEOC within 300 days of the discriminatory act, or within 30 days of a notice that the State agency has finished its proceedings, whichever happens first. Some actions may be continuing violations of Title VII, and are not then subject to the usual time limits.

EEOC's enforcement process begins with an interview with an equal opportunity specialist who talks with you about what happened. The EEO specialist then fills out the charge form, provides counseling on legal rights, and explains the EEOC enforcement process. After the charge is filed, EEOC notifies the employer and requests appropriate information. If a satisfactory settlement cannot be reached, EEOC will investigate the charge further and make a decision on whether there is reasonable cause to believe that discrimination occurred. If the Commission finds no reasonable cause, it will give you a "right-to-sue" letter which permits you to initiate a private suit, if you want to do so. If reasonable cause is found, and EEOC is not able to reach settlement through conciliation efforts, the Commission will review the case again and decide whether the Commission should sue the employer. If they decide against going to court, they issue a right-to-sue letter so you can sue privately. You do not have to wait for this entire process to be completed before you begin a private suit. You may begin your own suit any time after EEOC has had jurisdiction to act on the case for 180 days. However, you must have a right-to-sue letter before any action may be started in court. After getting the right-to-sue letter, you have 90 days to file in court. You should try to secure an attorney before requesting a letter. EEOC will try to help you find a lawyer if you are unable to find one on your own. If a judge or jury finds that discrimination occurred, the employer may be ordered to hire or reinstate you, with or without money damages.

Because time is crucial in the Title VII cases, if you think you have been discriminated against, it is important to contact the EEOC soon after the discriminatory action occurs, to find out if there may be grounds for filing a complaint. You can reach the EEOC at

1-800-669-EEOC, except when calls are initiated within the District of Columbia. District of Columbia callers must use 663-4900.

It is also against the law to discriminate against anyone for starting proceedings under Title VII, opposing an illegal practice, or participating in an investigation. A person who is discriminated against in this way may file a complaint or charge.

Ida Phillips was refused a job as an assembly trainee because she had pre-school age children. Employment of male trainees was not so restricted. The Supreme Court held that the policy of excluding women with pre-school age children was discriminatory, because the employer had not justified its different hiring practices for women and men with young children. Phillips *v.* Martin Marietta Corp., *400 U.S. 542 (1971).*

Executive Order 11246, as amended, prohibits employment discrimination based on sex as well as on race, color, religion, or national origin by Federal contractors and subcontractors and by contractors who hold Federal or federally assisted construction contracts exceeding $10,000. It also requires that all such contractors take affirmative action to ensure equal employment opportunity. In the case of State or local governments holding contracts, except for educational institutions and medical facilities, coverage is limited to the agency participating in the contract.

To ensure nondiscrimination in employment, contractors must take affirmative action in such areas as recruitment or recruitment advertising; hiring, upgrading, demotion, or transfer; layoff or termination; rates of pay or other compensation; and selection for training, including apprenticeship.

The Executive order is enforced by the Office of Federal Contract Compliance Programs (OFCCP), U.S. Department of Labor. OFCCP sets policy and develops regulations for implementing the Executive order, and checks to see that Federal contractors comply with the regulations. Compliance reviews are the primary mechanism for carrying out the Federal Government's policy to further equal employment opportunity.

OFCCP sex discrimination guidelines provide, among other things, that contractors may not express a sex preference, i.e., female or male when advertising for employees unless sex is a bona fide occupational qualification for the job, base seniority lists on sex, deny a person a job because of State "protective" labor laws, or make distinctions between married or unmarried persons of one sex only. OFCCP established goals and timetables for the employment of women under construction contracts in 1978.

What To Do

As an individual you may not privately sue a company for violation of Executive Order 11246. However, you may file a complaint of discrimination by a Federal contractor or subcontractor by phone, letter, or personal visit to OFCCP in Washington, DC, or to one of OFCCP's regional or area offices (see Appendix A for addresses). Complaints may also be filed by individuals or organizations on behalf of persons affected by discriminatory conduct. If your complaint involves discrimination against only one person, OFCCP will refer it to the Equal Employment Opportunity Commission. OFCCP generally is concerned about practices that affect larger segments of the employer's work force. You should file the complaint within 180 days of the action you are complaining about since the filing time may be extended only for a good reason.

The complaint letter should include a description of the discriminatory action, names and addresses of the contractor and of all those who were discriminated against, and any other information that would aid in an investigation. After receiving the complaint OFCCP either conducts an investigation or refers the complaint to EEOC. If the investigation indicates there are violations of the Executive order, OFCCP attempts to reach a conciliation agreement with the contractor. A conciliation agreement might include back pay, seniority credit, promotions, or other forms of relief for the employees who have suffered from discrimination. If the conciliation effort is unsuccessful, there is an established administrative process which includes a formal hearing. Contractors who do not comply may lose their Government con-

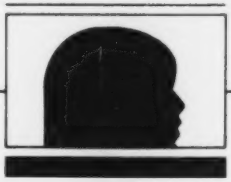
tracts, have payments withheld, or be debarred from Federal contract work. In some cases the Department of Justice may file suit in Federal court on behalf of the Department of Labor for violations of the equal opportunity contract provisions.

Discrimination Based on Age. The Age Discrimination in Employment Act of 1967 (ADEA) as amended, generally prohibits employers from using age as a basis for employment decisions for persons 40 or older. The law applies to all public employers, private employers of 20 or more employees, employment agencies serving covered employers, and labor unions of more than 25 members.

Employers may not fail or refuse to hire, discharge, or otherwise discriminate against any individual with respect to compensation or terms or conditions of employment because of age. Employment agencies may not fail or refuse to refer an individual because of age, and labor unions may not exclude or expel a person because of age, or otherwise discriminate against any individual because of age. The ADEA prohibits help-wanted advertisements which indicate preference, limitation, specification or discrimination based on age. For example, terms such as "girl," and "35-55," may not be used because they indicate the exclusion of qualified applicants based on age. The law does not prohibit discharge or discipline of an employee for good cause.

The ADEA does not cover situations in which age is a bona fide occupational qualification, such as modeling "junior miss" fashions; differences which are based on reasonable factors other than age, such as the use of a physical examination when heavy physical demands are to be made upon the worker in the performance of the job; and differences based on bona fide seniority systems. The act does prohibit using employee benefit plans as a basis for refusing to hire older applicants or for retiring older employees. It does not permit the involuntary retirement of workers, except for certain senior executive and high-level policymaking employees and, until January 1, 1994, police officers, firefighters, prison guards, and tenured academic faculty, who may be forced to retire at specified ages. Beginning in 1991, the ADEA requires, in general, that employers offer employee benefits on an equal cost or equal benefit basis to all employees, regardless of age, except for special rules that will apply to retirement incentive, severance, and disability benefits. These changes to the ADEA will have a delayed effective date for certain individuals covered by collective bargaining agreements.

Persons hired near the normal retirement age under a pension plan may not be excluded from participation in the plan after January 1, 1988. However, employers may require that employees participate in the plan at least 5 years to be eligible for certain pension benefits.



What To Do

If you think you have been discriminated against because of your age, you may file a complaint or charge with EEOC, which enforces the ADEA. After receiving notice of a possible ADEA violation, an equal opportunity specialist will interview you to obtain the specifics of your allegation, to explain the EEOC investigative procedures and to counsel you about your legal rights under the law. If you want complete confidentiality, you should file a *complaint.* The Commission will process the allegation of discrimination without revealing your identity. However, if you want to preserve the right to file a private suit, you must file a *charge,* and the employer must be informed about who is making the charge.

Charges must be filed within 180 days of the alleged discriminatory action unless there is a State law which provides remedies comparable to the ADEA. In that case, the permissible time limitation for filing is 300 days. Upon receipt of a *charge* or *complaint* EEOC will investigate the specific allegations and will make a determination of whether there has been a violation of the act. If it is determined that a violation exists, EEOC will attempt to conciliate and obtain full relief for the aggrieved individuals. If EEOC is unable to obtain a conciliation agreement, it will notify the charging party of her/his private right to sue and may file suit against the respondent. If EEOC is unable to substantiate the allegations, it will so advise the charging party and the individual may file a private law suit. Law suits must be filed within 2 years of the alleged act; 3 years for willful violation. Discriminating against an individual for starting proceedings under the law, opposing an illegal practice, testifying, or participating in an investigation is unlawful.

For additional information about the ADEA, contact EEOC at 1-800-669-EEOC. It has free pamphlets which provide detailed information about the age discrimination law and EEO specialists who answer specific questions.

Betty Hall, 47 years old, was denied a job as a teller at the First Federal Savings and Loan Association of Broward County, Florida. A Labor Department investigation revealed that the personnel officer who interviewed her marked "too old for teller" on his notes. Other evidence of age discrimination included an ad for a "young man," a job order with an employment agency for teller trainees between the ages of 21 and 24, and the fact that none of the 35 persons hired for teller jobs in the year following passage of the Age Discrimination in Employment Act were over 40. The court upheld an injunction prohibiting the bank from further violations of the ADEA and ordered back pay for Betty Hall. Hodgson *v.* First Federal Savings and Loan Ass'n., *455 F.2d 818 (5th Cir. 1972).*

Discrimination Based on Disability. The *Americans with Disabilities Act* (ADA) prohibits discrimination against individuals with disabilities in private, State, and local government employment; public accommodations; public transportation; State and local government services; and telecommunications.

The ADA includes as individuals with disabilities those persons who have a physical or mental impairment that substantially limits a major life activity. The ADA also protects individuals who have a record of a substantially limiting impairment, and individuals who are regarded as having a substantially limiting impairment.

Title I of the Americans with Disabilities Act protects qualified individuals with a disability from employment discrimination. A qualified individual with a disability is an individual who can perform the essential functions of the job with or without reasonable accommodation. An employer is required to provide reasonable accommodation to the known physical or mental limitations of an otherwise qualified applicant or employee with a disability unless it would impose an undue hardship on the operation of its business.

Title I will become effective for employers of 25 or more employees on July 26, 1992, and for employers of 15 or more on July 26, 1994.

The employment title of the ADA uses the procedures and remedies under Title VII of the 1964 Civil Rights Act. (See "What to Do – The EEOC Complaint Process," under **Getting the Job**.)

The *public accommodations title* of ADA takes effect 18 months after enactment for businesses. Newly constructed and renovated buildings have to be made accessible to persons with disabilities, and existing businesses must be made "readily accessible." The Attorney General is authorized to seek civil penalties and monetary damages against businesses that engage in a "pattern or practice" of violations.

The ADA requires companies engaged in *public transportation* to make their newly purchased or leased buses, subways and commuter train cars accessible to disabled persons. Railroad operators must have at least one car per train accessible within 5 years and train platforms accessible within 3 years. The ADA requires the development of an interstate telephone relay service which would permit speech and hearing impaired persons to communicate with nondisabled speakers.

The Rehabilitation Act of 1973. The ADA builds on the experience of the Rehabilitation Act of 1973, as amended, which remains in effect, as do State laws prohibiting discrimination against disabled persons. Section 503 of the act currently requires covered Federal contractors and subcontractors to take affirmative action to employ and advance qualified individuals with handicaps.

The Office of Federal Contract Compliance Programs (OFCCP), U.S. Department of Labor, enforces section 503 of the Rehabilitation Act. The OFCCP enforcement process includes investigation and conciliation efforts as well as recourse to court action. Remedies include withholding of payments and debarment from Federal contracting. Federal courts in general have not recognized the right of an individual to sue privately under this section.

Section 504 of the Rehabilitation Act, as amended in 1978, forbids discrimination against handicapped individuals in programs or activities receiving Federal funds. Courts have held that section 504 permits individuals to take legal action against such programs for discriminatory acts. Section 504 is enforced by the agency providing Federal assistance, under the general leadership of the Department of Justice. The EEOC provides leadership and guidance with respect to employment discrimination based on disability.

Federal regulations prohibit Federal agencies from discriminating against qualified persons with physical or mental disabilities; require them to make reasonable accommodation to the known physical or mental limitations of qualified applicants or employees; and require them to issue regulations regarding the acceptance and processing of complaints of discrimination based on a physical or mental disability. The Equal Employment Opportunity Commission enforces the regulations that apply to Federal employees.

Employers, unions, public and private employment agencies, and joint labor-management committees for apprenticeship and training are

prohibited by some State fair employment practices laws from discrimination based on disability. For information about State protections, contact the State department of labor or human rights commission.

What To Do

For additional information about the Americans with Disabilities Act (ADA), you may telephone EEOC at 1-800-669-EEOC *except* when calls are initiated within the District of Columbia. D.C. callers must use 663-4900. Employers have until July 26, 1992, to come into compliance with employment requirements of the ADA. However, enforcement procedures are already in effect for Federal contractors and programs receiving Federal financial assistance.

If you think you are qualified to do a particular job with an employer who holds Federal contracts or subcontracts, and you have been discriminated against because of your disability, you may contact the Office of Contract Compliance Programs listed in Appendix A.

If you experience discrimination on the basis of disability under programs receiving Federal financial assistance, you may be able to resolve the problem with the program operator. You may also complain to the Federal agency providing funds for the program. (See Appendix A.)

On the Job

Workers are protected on the job by a variety of laws which prohibit discrimination and govern wages, hours, occupational safety and health and other employment-related issues.

Minimum Wage, Overtime Pay, and Wage Payment

The Fair Labor Standards Act (FLSA) provides for minimum wages and overtime pay for covered workers. The FLSA now covers the great majority of workers. However, casual babysitters and companions for the aged and infirm; executive, administrative, and professional employees; outside salespeople; employees of certain small, local retail or service establishments; and some agricultural workers, are still exempt from both the minimum wage and overtime premium pay provisions of the FLSA.

Since April 1, 1991, the minimum hourly wage for all covered workers for the first 40 hours each week has been $4.25 an hour. (For the year from April 1, 1990 through March 31, 1991, the minimum was $3.80.) Workers in some States benefit from higher rates under State laws. Under certain conditions lower rates may be paid to learners, apprentices, handicapped workers, and full-time students.

Since April 1, 1990, employers have been allowed to pay a training wage, under certain conditions, of at least 85 percent of the minimum wage (but not less than $3.35 an hour) for up to 90 days to employees under age 20—except for migrant or seasonal agricultural workers and for H-2A nonimmigrant agricultural workers performing work of a temporary or seasonal nature. An employee who has been paid at the training wage for 90 days can be employed at the training wage for 90 additional days by a different employer, if that employer provides

on-the-job training in accordance with regulations issued by the U.S. Department of Labor.

Employers are prohibited from displacing employees (or reducing their wages or benefits) in order to hire employees at the training wage. Also, the number of hours paid at the training wage cannot exceed 25 percent of all the hours worked by all employees of the establishment in any month. The training wage provisions expire March 31, 1993.

The FLSA does not limit the hours of work for employees who are 16 years or older. However, most covered workers are entitled to 1½ times their regular rate of pay for hours in excess of 40 a week. The law does not require premium pay for overtime for covered agricultural workers, live-in household workers, taxicab drivers, and employees of motor carriers, railroads, and airlines. Hospitals and residential care establishments may adopt, by agreement with the employees, a 14-day overtime period instead of the usual 7-day workweek, if the employees are paid at *least* time and a half their regular rate for hours worked over 8 in a day or 80 in a 14-day period, whichever is the greater number of overtime hours.

The law permits lodging, board, or other facilities provided by an employer to be considered as a part of wages. Under certain conditions, employers can take a tip credit towards their minimum wage obligations for tipped employees (those who regularly receive more than $30 a month in tips). Since April 1, 1991, a $2.12 per hour tip credit could be taken for tipped employees (50 percent of $4.25); the tip credit from April 1, 1990 through March 31, 1991 was $1.71 per hour (45 percent of $3.80). *If an employee's hourly tip earnings (averaged weekly) and the cash wage that the employer pays do not equal the minimum wage, the employer is responsible for paying the balance.*

Some States have minimum wage laws that are higher than the Federal law. In addition most States have wage payment laws. These laws deal with how often you are paid and how long after termination you are to be paid. These laws are enforced by State departments of labor.

The Federal law does not require premium pay for weekends or holiday work, or, generally, for daily overtime; nor does it require rest periods, discharge notices, or severance pay. It is enforced by the Wage and Hour Division of the Employment Standards Administration, U.S. Department of Labor, which has authority to investigate complaints and to initiate action against violators of the law who may be subject to civil or criminal court action.

Some States have laws limiting the days per week an employee can be required to work or which contain provision on Sunday work, working on the Sabbath, holidays, and rest periods. The State department of labor can provide information about its employment laws.

Provisions of a collective bargaining agreement or written personnel policies may provide similar or additional benefits with some employers.

What To Do

If you think that you are not being paid the minimum wage or required overtime pay, you may file a complaint with the Wage and Hour Division. Complaints are treated confidentially. More detailed information on the FLSA and other laws administered by the Division is available from local Wage and Hour offices, which are listed in the blue pages of most telephone directories under U.S. Government, Department of Labor, Wage and Hour Division.

Upon receiving a complaint of an FLSA violation, Wage and Hour compliance officers investigate to see if it is valid. If it is, the Wage and Hour Division attempts to persuade the employer to comply with the law. If these attempts are unsuccessful, the case is referred to the Department of Labor Solicitor's Office, which may decide to file suit against the employer in Federal court.

In addition to the Federal remedy, under FLSA you have a right to sue the employer yourself for back pay, damages, attorneys' fees and court costs. However, if you begin a private suit, the Department of Labor will not pursue your case in court. In order to recover back pay, you must file your suite in court within 2 years, except in cases of willful violations, in which case the time limit is 3 years.

It is unlawful to discharge or otherwise discriminate against an employee for filing a complaint or participating in a proceeding under the FLSA.

Waitresses and waiters at a Marriott restaurant averaged more than the minimum wage in tips, and management paid any difference if the tips fell below the minimum wage. The U.S. Court of Appeals held that this policy violated the Fair Labor Standards Act as amended in 1974. The FLSA provided that employers must pay at least 50 percent of the minimum wage regardless of the amount of tips, that employees have a right to retain their tips unless the employees are participating in a valid tip pool arrangement (one in which only those employees who customarily receive tips participate) and that the tip credit toward the minimum wage was available only if employers informed employees about the provisions of the FLSA law. The court ordered back wages of the full amount of the minimum wage during the period of violation because it found that the employer's failure to inform employees of the FLSA tipping provisions was in bad faith. Richard *v.* Marriott Corp., *549 F.2d 303 (4th Cir. 1977).*

Equal Pay

The Equal Pay Act of 1963 amended the FLSA to prohibit pay discrimination because of sex. It requires the employer to pay equal wages within the establishment to men and women doing equal work on jobs requiring equal skill, effort, and responsibility, which are performed under similar working conditions. Pay differences based on a seniority or merit system or on a system that measures earnings by quantity or quality of production are permitted. Employers may not reduce the wage rate of any employee in order to eliminate illegal wage differences. The law is interpreted as applying to "wages" in the sense of all employment-related payments, including overtime, uniforms, travel, and other fringe benefits.

In addition to covering employees subject to the minimum wage requirements of the FLSA, the law applies to Federal, State and local government employees; executive, administrative, and professional employees; and outside salespeople.

A number of court cases have established that jobs need be only substantially equal, not identical, in order to be compared for purposes of the act; job descriptions or classifications are irrelevant in showing

that work is unequal, unless they accurately reflect actual job content, and mental as well as physical effort must be considered.

What To Do

If you think you are not receiving equal pay for equal work, you may file a complaint with the Equal Employment Opportunity Commission, which enforces the Equal Pay Act. If you request confidentiality, your identity will not be revealed during an investigation of an alleged equal pay violation. If a violation is found, EEOC will negotiate with the employer for a settlement including back pay and appropriate raises in pay scales to correct the violation of the law. EEOC may also initiate court action to collect back wages under the act.

Under the Equal Pay Act you also have a right to sue privately for injunctive relief, back pay, interest, damages, attorney's fees, and court costs. However, you may not sue the employer if you have already been paid full back wages under EEOC supervision or if EEOC has filed a suit in court to collect these wages. You must file suit within 2 years of an Equal Pay Act violation, except in the case of deliberate violations, in which case there is a 3-year time limit.

A glass manufacturing company paid male selector-packers 21 cents an hour more than female selector-packers, and tried to justify the difference on the basis that men performed additional duties such as lifting and stacking cartons and using hand trucks. The Court of Appeals ruled that under the Equal Pay Act "equal" does not mean identical but rather substantially equal, and minor differences in duties do not justify pay differences. Shultz *v.* Wheaton Glass Co., *421 F.2d 259 (3rd Cir. 1970).*

Sex-Based Wage Discrimination

Title VII of the Civil Rights Act of 1964, as amended, also prohibits wage discrimination based on sex, as well as race, religion, color and national origin. According to a 1981 decision by the U.S. Supreme Court, wage discrimination covered by Title VII is not limited to unequal pay for equal work. Most women workers are concentrated in relatively few occupations. Some who work in traditionally female jobs have filed complaints under Title VII, charging that such work is undervalued and underpaid in comparison with other work—generally performed by men—different in content but seen to require the same or less educational preparation, experience, skill and responsibility. For example, nurses have questioned their pay compared to that of city sanitarians, and clerical employees have claimed discrimination in comparing their wages to those of physical plant employees.

Up to now, the courts have been reluctant to find that unequal pay for jobs thought to be of equal value, by itself, is proof of sex-based wage discrimination. Future court cases and interpretations by the Equal Employment Opportunity Commission, which enforces Title VII, will help to further define what practices amount to illegal sex-based wage discrimination.

Promotions, Training, and Working Conditions

Title VII of the Civil Rights Act of 1964 (described in the section on **Getting the Job**) also protects workers against discrimination on the basis of sex, race, color, religion, or national origin in most on-the-job aspects of employment. Employers must recruit, train, and promote persons in all job classifications without discrimination. Promotion decisions must be made according to valid requirements. Training and apprenticeship opportunities must be offered in accord with equal employment opportunity principles. Employers may not discriminate against individuals in any terms or conditions or privileges of employment.

Race discrimination in working conditions includes racial harassment by coworkers and lack of effective action on the part of management.

A Black employee was subjected to numerous instances of coworker harassment, which the court found management and supervisors knew and should have known about and took inadequate steps to prevent racial harassment. The company also was found to have no clear policy against racial harassment.

The court ordered the employer to take affirmative action, including educating and sensitizing supervisory and management

personnel and developing written disciplinary measures to be directed against offending employees and officials; plaintiff was awarded attorney's fees by the court, which noted that he deserved them for performing a valuable public service although he had not prevailed on all issues.

Equal Employment Opportunity Commission v. Murphy Motor Freight Lines, Inc., 488 F.Supp. 381, 22 EPD Pa.30,888 (D. Mn. 1980).

Religious antidiscrimination law requires employers to make reasonable accommodation to the religious practices of an employee or prospective employee, unless to do so would create an undue hardship upon the employer. Flexible scheduling, voluntary substitutions or swaps, job reassignment and lateral transfers are examples of accommodating an employee's religious beliefs.

Employers cannot schedule examinations or other selection activities in conflict with a current or prospective employee's religious needs, inquire about an applicant's future availability at certain times, maintain a restrictive dress code, or refuse to allow observance of a Sabbath or religious holiday, unless the employer can prove that not doing so would cause an undue hardship.

A Jewish airline employee was found to have been improperly harassed on the basis of his religion where he was singled out for unpleasant and exceptionally heavy work. Rattner *v.* Trans World Airlines, *City of New York Commission on Human Rights*, Decision No. 4135-J (September 11, 1973).

Discrimination on the basis of national origin is also prohibited under Title VII. An employer may not discriminate because of birthplace, ancestry, culture, or linguistic characteristics common to a specific ethnic group. A rule requiring employees to speak only English at all times on the job may violate Title VII, unless an employer shows it is necessary for conducting business. If an employer believes the English-only rule is critical for business purposes, employees have to be told when they must speak English and the consequences for violating the rule. Any negative employment decision based on breaking the English-only rule will be considered evidence of discrimination if the employer did *not* tell employees of the rule.

Harassment on the basis of national origin is a violation of Title VII. Ethnic slurs and other verbal or physical conduct because of an individual's nationality is harassment if it creates an intimidating, hostile or offensive working environment, unreasonably interferes with work performance, or negatively affects an individual's employment opportunities.

Similar protections are provided to employees of Federal contrac-

tors and subcontractors under Executive Order 11246, as amended. (See section on **Discrimination Based on Sex, Race, Color, Religion, and National Origin.**) Under the affirmative action order for service and supply contractors, employers are required to set goals and timetables for promoting women and minorities in jobs where they have been underutilized.

On-the-job-protection for workers with disabilities is provided under the Americans with Disabilities Act and the Rehabilitation Act of 1973. The Age Discrimination in Employment Act protects workers from on-the-job discrimination based on age. (These acts are listed under **Getting the Job**.)

Some States require employers to provide employees with meal periods, rest periods, and/or seats. Such State provisions applying to women only have generally been repealed, rendered invalid, or extended to men. Your State labor department listed in Appendix B can tell you whether your State has such provisions.

What To Do

If you think you have been treated unfairly on the job, and the basis for the action was your sex, race, color, religion, national origin, handicap, or age, you may contact the agency that enforces the law for more information about the protections provided and the enforcement process. You can find out how to file a complaint and what your legal rights are. The laws prohibit employers from discharging or otherwise discriminating against individuals who file complaints or participate in an enforcement process.

If you have a court hearing and you want to pursue money damages because of the intentional discrimination you suffered, either you or your employer can now request a jury trial. The Civil Rights Act of 1991 provides these new rights to employment discrimination victims, but the law limits the amount of money an employee can recover for sex discrimination.

Each complainant may recover damages for future financial losses, emotional pain, suffering, mental anguish, loss of enjoyment of life, and other nonpecuniary losses. Excluding any back pay, the amount recovered for each complainant may not exceed:

- $50,000 for employers with 15-100 employees;
- $100,000 for employers with 101-200 employees;
- $200,000 for employers with 201-500 employees; and
- $300,000 for employers with more than 500 employees.

Pregnancy Discrimination Act

Title VII of the Civil Rights Act of 1964 as amended in 1978, specifically prohibits discrimination because of pregnancy. Employers cannot refuse to employ a woman because of pregnancy or terminate her, force her to go on leave at an arbitrary point during pregnancy, or penalize her because of pregnancy in reinstatement rights – including credit for previous service, accrued retirement benefits, and accumulated seniority.

The law does not require an employer to provide a specific number of weeks for maternity leave, or to treat pregnant employees in any manner different from other employees with respect to hiring or promotions, or to establish new medical, leave, or other benefit programs where none currently exist.

The law requires that women affected by pregnancy, childbirth or related medical conditions be treated the same for all employment-related purposes, including receipt of benefits under fringe benefit programs, as persons not so affected but similar in their ability or inability to work. The amendment does not require employers to pay for health insurance benefits for abortions, except where the woman's life would be endangered or where medical complications have arisen from an abortion. On the other hand, it does not preclude employers from providing abortion benefits or otherwise affect bargaining agreements in regard to abortion. Employers may not fire or refuse to hire a woman simply because she has exercised her right to have an abortion.

What To Do

If you think you are being treated unfairly because your temporary inability to work is due to pregnancy, you should contact the Equal Employment Opportunity Commission office that serves your area for information about your rights under Title VII. (See Appendix A for addresses.)

Nora Satty was required to take leave of absence because of her pregnancy. When she returned to work she was given a temporary position, and was denied her accumulated seniority, with the result that she was unable to compete successfully for a permanent position in the company. Under company policy seniority was retained during leaves of absence for disease or disability other than pregnancy. The Supreme Court held that the company policy violated Title VII of the Civil Rights Act of 1964 because it imposed a burden on women that was not imposed on men. Nashville Gas Co. *v.* Satty, *434 U.S. 136 (1977).*

All Title VII prohibitions against sex discrimination in employment, including hiring, firing, terms, conditions or privileges of employment and pregnancy discrimination, are covered by the new remedies available to employment discrimination victims in court. You may request a jury trial and pursue damages, in addition to seeking reinstatement, hiring or other nonmonetary court orders.

State Maternity/Parental Leave Laws

State family leave laws vary widely. Many States have maternity and parental leave laws that allow a parent time off for the birth or adoption of a child. Some States have maternity disability laws for mothers to recover after childbirth. Others have maternity leave laws for mothers during pregnancy, childbirth, and for the care of a newborn or newly adopted child. And there are some that provide leave to care for the illness of a child, spouse, parent or the employee himself or herself. More States provide maternity or parental leave to employees of State government than to workers in private employment.

These State maternity and parental leave laws provide for a specific number of weeks that a parent may take off for the birth or adoption of a child, and usually include a reinstatement provision so that an employee can come back to his or her job or a similar job. These laws sometimes require provisions for the continuation of health insurance while the employee is on leave.

Five States and Puerto Rico have temporary disability insurance (TDI) laws that provide partial salary replacement for nonwork related disabilities and these disabilities include childbirth and pregnancy related

conditions. These TDI laws do not include reinstatement to the same or similar job.

What To Do

If you have questions about whether your State has a maternity or parental leave law, you should contact the State department of labor or human or civil rights agencies listed in Appendix B.

Veterans' Reemployment Rights

Under the Veterans' Reemployment Rights (VRR) law (Chapter 43, Title 38, U.S. Code), a person who left an "other than temporary" civilian job in order to enter active duty in the Armed Forces, either voluntarily or involuntarily, may be entitled to return to her or his civilian job after honorable discharge or release from active duty. For example, the mere fact that the employee works on a part-time basis does not make the position temporary within the meaning of the statute. If the position involves the performance of continuing services for an indefinite period, it is considered "other than temporary," regardless of the number of hours worked per day per week. Employment that is seasonal in nature is considered to be "other than temporary" if it is reasonably expected to be recurrent from season to season, on the basis of custom, practice, or contract. The VRR law covers reemployment rights for those who rendered active duty service, initial active duty for training, active duty for training and inactive duty for training. The main point of the VRR law is to place the returning veteran in the job that would have been attained if she or he had remained continuously employed instead of going on active duty. This means that the person may be entitled to benefits that are generally based on seniority, such as pensions, pay increases, missed promotions, and missed transfers.

Applications for reemployment should be given verbally or in writing to a person who is authorized to represent the employer for hiring purposes. A record of when and to whom the application was given should be kept. This is important because if there are problems in attaining reemployment, the persons may be eligible to have the Depart-

ment of Labor (which administers the VRR law) represent them, based on the validity of the claim.

What To Do

Questions on the law, including the basic eligibility criteria, or requests for assistance in attaining reemployment rights should be directed to the Department of Labor's Director for Veterans' Employment and Training (DVET) for the State in which the employer is located or call 1-800-422-2VET for the appropriate DVET telephone number. Also, contact the DVET concerning questions about private sector and State or local government reemployment. When the Federal Government is the employer, questions or requests for assistance should be directed to your local Office of Personnel Management (OPM), or the Office of Personnel Management, Veterans' Coordinator, Washington, DC, telephone (202) 606-0960. Postal employees are covered by section 517 of the Employee Labor Relations Manual of the U.S. Postal Service. Consult the telephone directory for the local office or contact the Program Manager, Employee Relations Department, U.S. Postal Service Headquarters, Washington, DC 20260-4256, telephone (202) 268-3970.

Sexual Harassment

Sexual harassment is an unlawful employment practice under Title VII of the Civil Rights Act of 1964, as amended. The EEOC "Guidelines on Discrimination Because of Sex" provide that unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitute sexual harassment when:

- Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment;
- Submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting that person;
- Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment. (In 1986 the U.S. Supreme Court, in *Meritor Savings Bank* v. *Vinson*, agreed with the EEOC guide-

lines and lower court rulings that unwelcome sexual advances that create an offensive or hostile working environment violate Title VII.)

Unless the conduct is quite severe, a single incident or isolated incidents of offensive sexual conduct or remarks generally do not create a hostile environment.

The EEOC recognizes that sexual conduct may be private and unacknowledged, with no eyewitnesses. Therefore, in appropriate cases, it may make a finding of harassment based solely on the credibility of the victim's allegation.

Sexual harassment may also be accompanied by *sex-based harassment*, such as physical aggression, intimidation, hostility, or unequal treatment based on sex but not sexual in nature.

An employer, employment agency, joint apprenticeship committee, or labor organization may be responsible for the acts of its agents and supervisory employees, regardless of whether the specific acts complained of were forbidden and regardless of whether the employer knew of their occurrence. An employer is not *automatically* liable for sexual harassment by its supervisory employees. On the other hand, lack of knowledge about such harassment does not necessarily protect the employer from liability. An employer is responsible for sexual harassment by coworkers where the employer knew or should have known of the conduct, unless immediate and appropriate corrective action was taken. An employer may also be responsible for sexual harassment by clients or customers.

Remedies for sexual harassment in violation of Title VII have included reinstatement with adjustment of seniority, wages, bonuses, and benefits to the level at which they would have been but for the discrimination; front pay (an amount for the loss of future income); transfer; payment for counseling sessions to the extent that they are not covered by insurance; outplacement costs if the complainant wanted another job; attorneys' fees; and requiring employers to develop clear and effective procedures for prompt and thorough investigation of sexual harassment complaints, to develop appropriate sanctions or disciplinary measures for employees found to have sexually harassed subordinates or coworkers, and to develop a seminar concerning sexual harassment and discrimination in employment which managers will be required to attend. The Civil Rights Act of 1991 authorized damages for intentional discrimination under Title VII, including sexual harassment (See **Discrimination Based on Sex, Race, Color, Religion, and National Origin,** under Federal Protection for Job Seekers.)

What To Do

If you are being sexually harassed, you can contact the Equal Employment Opportunity Commission for information and assistance in filing a sex discrimination complaint under Title VII. In sexual harassment cases it is particularly important to keep a record of incidents of harassment as described in the section on "How Women Can Assert Their Job Rights."

In March 1991, EEOC instructed its lawyers and investigators to target sexual harassment cases for possible quick investigation and court action. Charges of sexual harassment are reviewed by the legal staff as soon as they are filed. Where appropriate, the EEOC will promptly investigate such charges and take them before a United States District Court. The EEOC will ask that the court order the employer to immediately stop the sexual harassment of the complaining party while more thorough investigation and conciliation efforts by the EEOC take place.

A victim of sexual harassment can also file a suit under State laws which protect against assault, battery, intentional infliction of emotional distress, or intentional interference with an employment contract.

If the sexual harassment subjects the person being harassed to sexual contact, it could be a violation of criminal law against sexual assault. In addition, women in one case were able to seek redress under the National Labor Relations Act. (See example: *NLRB* v. *Downslope Industries, Inc. and Greenbriar Industries, Inc.*)

For more information, contact the Equal Employment Opportunity Commission at 1-800-699-EEOC.

Kyriaki Cleo Kyriazi claimed that three men working in the same department with her teased and tormented her by making loud remarks concerning her marital status; trumpeting their speculations

and making wagers concerning her virginity; deliberately blocking her path; placing an obscene cartoon of her on her desk; and treating her with contempt and ridicule and attempting to denigrate her as a professional. The U.S. District Court found that her supervisors were well aware of the harassment to which Kyriazi was subjected but chose to disregard her complaints and totally failed to take any action against the men who harassed her. It held that Kyriazi had alleged and proved a pattern of conduct on the part of her coworkers and supervisors which amounted to a tortious interference with her employment contract. Kyriazi *v.* Western Electric Co., *476 F. Supp. 335 (D.N.J. 1979).*

A group of seamstresses refused to start work until the "consulting" plant manager had listened to their protest against sexual harassment by their plant manager. After asking those who did not want to work for the plant manager to raise their hands, the "consulting" plant manager told the eight who did so to work for the plant manager or "hit the clock." After returning to the plant to ask for their jobs or their discharge slips, they were given their termination notices. The U.S. Court of Appeals held that freedom from sexual harassment is a working condition which employees may organize to protect under the National Labor Relations Act. It upheld the finding of the National Labor Relations Board that the employer's discharge of the employees violated the Act's prohibition on employers from interfering with, restraining, or coercing employees in the exercise of their rights under the Act. NLRB *v.* Downslope Industries, Inc. and Greenbriar Industries, Inc., *110 LRRM 2261 (1982).*

Garnishment

Garnishment is a procedure through which a creditor (such as a department store, finance company or recipient of court-ordered child support or alimony payments) can collect money owed; and the creditor has access to property of the debtor which is held by a third party (such as a bank or an employer). The most common form of garnishment is wage garnishment, where a creditor can go to court to get an order to have a portion of the debtor's wages paid directly to the creditor. Debtors are protected in garnishment proceedings by Title III of the Consumer Credit Protection Act, which is enforced by the Wage and Hour Division of the U.S. Department of Labor. The law limits the amount of disposable income which may be taken in a garnishment proceeding, and protects workers from being fired because of garnishment for any one indebtedness.

Many States have garnishment laws with provisions which offer greater protection than the Federal law does. For information about

State laws, contact the State department of labor or consumer protection agency. For information about the Federal law, contact the Wage and Hour Division of the U.S. Department of Labor. (See Appendix A for addresses.)

Unemployment Insurance

Unemployment insurance is a weekly benefit paid for a limited time to eligible workers when they are involuntarily unemployed. The purpose of the payment is to tide unemployed workers over until they find jobs for which they are reasonably suited in terms of training, past experience, and past wages. Benefits are paid in cash as a matter of right, and are not based on need. Unemployment insurance is a Federal-State system under which the Federal law establishes certain minimum requirements, but each State administers its own program. State law determines who is eligible, how much money each person receives, and how long benefits will be paid. To be eligible, a person must be unemployed, able to work, and available for and seeking work.

In all States, benefits are paid out of a fund collected from a special tax on employer payrolls. The amount of each employer's tax varies according to the amount of unemployment benefits paid to former employees. The Federal Government provides funds for payments to its laid-off civilians and for persons discharged from the Armed Forces.

Almost all wage and salary workers are covered by unemployment insurance. While each State specifies the amount of weekly and total payments and the manner in which they are calculated, the usual result is that the jobless worker receives about 50 percent of the average weekly wage formerly received. Most States limit payment to a maximum duration of 26 weeks, although two continue as long as 30 weeks. A special program—the Extended Benefits Program—provides that during times of high unemployment in the State, individuals who have exhausted their benefits under State law may continue to receive payments for up to 13 additional weeks. Unemployment payments are taxable as income.

Each State has its own rules about who is not qualified to receive benefits. Voluntary quits without good cause and being fired for misconduct are the two major reasons for disqualification. Another is refusal to accept a suitable job without good cause. The individual who is refused benefits is given a report indicating why benefits will not be paid and how long the disqualification will last. Penalties can range from postponement to denial of benefits for the duration of the current period of unemployment. States cannot deny benefits solely on the basis of pregnancy or recency of pregnancy, but pregnant individuals do have to meet the generally applicable requirements of seeking work and being available for and able to work. Persons who leave their jobs be-

cause of sexual harassment may be able to show they quit for good cause. Successful actions have been brought in a number of States in which women were held eligible for unemployment benefits after leaving a job because of sexual harassment.

Many States have provisions which disqualify workers who quit for reasons not attributable to the work or the employer. A number of other States disqualify workers for leaving the job for family reasons, such as getting married, moving with a spouse, or child care problems. Some States, however, will pay benefits to persons who quit their jobs for compelling personal reasons, and make decisions about benefit payments on a case-by-case basis according to the individual circumstances.

The requirement that a worker be available for employment in order to be eligible for unemployment compensation benefits presents problems for part-time workers in most States. This is because "available for employment" is interpreted to mean available for full-time employment. In most cases the requirement for full-time availability is the result of administrative interpretation, rather than provisions in the legislation. In a few States, unemployed persons who can work part time only will be considered "available" (and eligible for unemployment compensation) if they have been working in an occupation in which there is substantial demand for workers.

For information about unemployment benefits and eligibility requirements in your State, contact the employment security office that serves your area. Addresses are included in the telephone directory under State government listings.

Assistance for Dislocated Workers

A number of programs assist workers who are likely to face long-term unemployment because of plant closings, mass layoffs, imports, economic conditions, or natural disasters. Under certain circumstances, displaced homemakers can be eligible for assistance to dislocated workers.

The Worker Adjustment and Retraining Notification (WARN) Act requires covered employers to give notice at least 60 days in advance of plant closings and mass layoffs. This gives workers time to find new jobs or enter training programs and helps State and local governments provide timely and appropriate assistance.

The Economic Dislocation and Worker Adjustment Assistance Act (EDWAA), replacing Title III of JTPA, provides a comprehensive array of retraining and reemployment services tailored to workers' individual needs. A State Dislocated Worker Unit can provide rapid response through on-site services to assist workers facing job losses. Retraining can include classroom, literacy, occupational skills and/or on-the-job training. Basic and remedial education and entrepreneurial

training may be provided. If enrolled in training by the 13th week of unemployment insurance (UI), dislocated workers who have exhausted their UI may receive needs-related payments to help them complete training.

Trade Adjustment Assistance, authorized by the Omnibus Trade Act, provides benefits, training, job search and relocation assistance to workkers dislocated due to imports.

What to Do

For further information, contact the local government agency in your area that administers the Job Training Partnership Act, your nearest State Job Service office, or the nearest office of the U.S Department of Labor listed in the blue pages of your local telephone book.

Mary Ann Turner lost her job for reasons unrelated to her pregnancy. She applied for and received unemployment benefits until 12 weeks prior to her expected delivery date. Under Utah law, women were ineligible for unemployment benefits 12 weeks prior to and 6 weeks after childbirth, although the State other wise grants unemployment benefits to persons unemployed and available for work. During the 12 weeks prior to delivery, Turner worked in temporary clerical jobs, thus showing that she was available for and capable of working. The Supreme Court overturned the Utah statute, holding that automatically assuming that a person cannot work because of pregnancy was unconstitutional. Turner *v.* Department of Employment Security of Utah, et al., *423 U.S. 44 (1977).*

Compensation for Injuries

Workers who are injured on the job or who contract an occupational disease may receive compensation under State workers' compensa-

tion laws. These laws provide for prompt payment of benefits to injured workers with a minimum of red tape and without the necessity of fixing the blame for the injury. In most States employers are required by law to cover their employees with workers' compensation protection, and heavy penalties are assessed for failure to comply with the law.

Since each State has its own law and operates its own system, the employees covered, the amount of compensation, duration of benefits, and procedures for making and settling claims vary widely. There are time limits within which notice of injury must be given to the employer, and failure to notify within the specified time will make a person ineligible for benefits. In addition to wage-loss compensation, benefits generally include medical payments for the period of disability or for permanent disability, rehabilitation services, death benefits to a workers' family, and burial expenses. In some States a person can receive workers' compensation for disability caused by work-related stress, including stress related to alleged sexual discrimination. Compensation payments are generally financed through private insurance companies, State compensation funds, or self-insurance by employers. For more information about workers' compensation benefits and procedures, write to the State department of labor or industrial commission.

Federal workers and certain other workers are covered by Federal workers' compensation laws. The Office of Workers' Compensation Programs in the U.S. Department of Labor administers the Federal Employees' Compensation Act, the Black Lung Benefits Reform Act, and the Longshore and Harbor Workers' Compensation Act. For information about these programs, Federal employees may contact their agency personnel office. Others may contact the Office of Workers' Compensation Programs, U.S. Department of Labor, Washington, DC 20210.

Occupational Safety and Health

The Occupational Safety and Health Act of 1970 is designed to ensure safe and healthful working conditions throughout the Nation. It covers every employer in a business affecting commerce, except where the workplace is covered under a special Federal law such as those for the mining and atomic energy industries. Federal employees are covered by an Executive order, and State and local government employees may be covered by the State, operating under a plan approved by the Federal Government. The law encourages States to operate occupational safety and health programs by providing grants for those whose plans demonstrate that the program can be "at least as effective as" the Federal program.

Under the general duty clause of the law, each employer must pro-

vide a workplace free from recognized hazards that are causing or are likely to cause death or serious physical harm. The Occupational Safety and Health Administration (OSHA) of the U.S. Department of Labor establishes standards which require conditions or the use of practices or methods necessary to protect workers on the job.

Since the Occupational Safety and Health Act was enacted in 1970, OSHA has adopted national consensus standards for more than 600 harmful physical agents and has issued proposed, final, or revised standards on access to employee exposure and medical records, acrylonitrile, inorganic arsenic, asbestos, benzene, bloodborne infectious diseases, cadmium, 14 carcinogens, coke oven emissions, cotton dust, Dibromochloropropane (DBCP), ethylene dibromide, ethylene oxide, formaldehyde, hazard communication, hazardous chemicals in laboratories, lead, 4,4' methylenedianiline (MDA), and vinyl chloride. Standards may set exposure limits and/or require conditions, on the adoption or use of one or more practices, means, methods or processes such as engineering controls or personal protective equipment reasonably necessary or appropriate to protect workers on the job. It is the employer's responsibility to become familiar and comply with the standards, to put them into effect, and to assure that employees have and use personal protective equipment required for safety and health.

Employees have a right:

- to request that OSHA conduct an inspection if they believe hazardous conditions or violations of standards exist in their workplace;
- to file a written request for an immediate inspection whenever they fear that an imminent danger is present in the workplace. If OSHA decides an inspection is unnecessary, they must notify the employee in writing;
- to refuse in good faith to expose themselves to a hazardous condition if there is no reasonable alternative. The condition must be of such a nature that, to a reasonable person, there is a real danger of death or serious injury and there is not enough time to do away with the danger through the complaint process;
- to have an authorized employee representative accompany the OSHA representative during an inspection tour;
- to respond to questions from an OSHA inspector;
- to review employer information about job-related accidents and injuries at the workplace;
- to participate in establishing standards;
- to be advised by their employer of hazards, prohibited by the law, that exist at the workplace and of possible exposure to toxic or dangerous materials;
- to be notified of any citations issued against their employer.

Some of the potential health hazards of jobs in which large numbers

of women are employed are: organic solvents found in stencil machines, correction fluids, rubber cement, and ozone from copying machines (clerical workers); cotton dust, skin irritants, and chemicals (textile and apparel workers); hair, nail, and skin beauty preparations (hairdressers and beauticians); heat, heavy lifting, and chemicals (launderers and dry cleaners); solvents and acids (electronics workers); infectious diseases, heavy lifting, radiation, skin disorders, and anesthetic gases (hospital and other health care workers); and biological agents, flammable, explosive, toxic, or carcinogenic substances, exposure to radiation, and bites and allergies from research animals (laboratory workers).

The Occupational Safety and Health Administration has issued a hazard communication standard which requires employers to provide information to their employees about hazardous chemicals they are exposed to in the workplace. Several cities and States have enacted laws requiring manufacturing and nonmanufacturing employers to inform their employees about any toxic substances they are exposed to at the workplace. The National Labor Relations Board has also ruled that unions who request them must be given the names of chemicals and other substances the workers are exposed to in the workplace.

Reports to OSHA from workers indicate that a number of major corporations have adopted or expanded policies that exclude women of childbearing age and pregnant women from jobs involving potential exposure to certain toxic substances because of possible fetal damage.

In March of 1991, the U.S. Supreme Court ruled in *UAW* v. *Johnson Controls, Inc.* that the company's "fetal protection" policy constituted illegal sex discrimination; that is, the policy of excluding all women except those who were infertile from jobs involving potential dangerous lead exposure could not be defended under the Title VII as amended by the Pregnancy Discrimination Act. Following the Supreme Court's decision in *Johnson Controls*, the EEOC issued a policy guidance which states that if a charging party alleges that the respondent excludes members of one sex from employment based on a fetal protection policy and the investigation confirms the allegation, the investigating office should find that the employer has engaged in illegal sex discrimination.

What To Do

If you believe unsafe or unhealthful conditions exist in your work-

place, you or your representative can file a complaint requesting an inspection. If there is a poster about the State or Federal health and safety law at your workplace, your complaint should be filed with the indicated agency. If there is no poster (OSHA requires one to be present), the complaint should be filed with OSHA (see Appendix A for address). OSHA will withhold names of complainants upon request. If you have been discharged or otherwise discriminated against in any way for exercising your rights under this law, you may file a discrimination complaint with OSHA within 30 days of the discriminatory action.

If you are concerned about the health effects of exposure to a given substance or working conditions, a request may be made to the National Institute for Occupational Safety and Health (NIOSH) to conduct a health hazard evaluation at your workplace.

A request for a health hazard evaluation should be addressed to NIOSH, Hazard Evaluation and Technical Assistance Branch, U.S. Department of Health and Human Services, Cincinnati, Ohio 45226. A sample of the form "Request for Health Hazard Evaluation" can be found in Appendix C along with information about who may file the forms.

Termination

There is no general law which prohibits private employers from discharging employees without good cause. Employers have historically had the right to fire employees at will, unless there was a written contract which protected against it. This broad right to discharge employees at will has been limited by a number of Federal laws which prohibit discrimination based on sex, race, color, religion, national origin, age, physical or mental disability, union or other protected concerted activities, wage garnishment, and filing complaints or assisting in procedures related to enforcing these laws.

In addition, some States and municipalities have passed laws which prohibit discharge for serving on jury duty, filing workers' compensation claims, refusing to take lie detector tests, or for discrimination based on marital status or sexual orientation. Collective bargaining agreements between employers and unions, and employee complaint procedures, also impose limitations on the absolute right of an employer to fire workers.

Some employees who have challenged their discharges in courts have succeeded in placing additional limitations on employers' right to discharge. Courts in some States have ruled in favor of discharged employees—when the discharge was contrary to such public policy, as refusal to commit perjury or to approve market testing of a possibly

harmful drug; or when it was not based on good faith and fair dealing, such as discharge for refusal to date a supervisor, or to avoid paying a large commission; or when there was an implied promise of continued employment. An implied promise of continued employment might be demonstrated by the personnel policies or practices of an employer, an employee's length of service, the nature of the job, actions or communications by the employer, and industry practices.

Health Insurance Continuation

The Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA) requires that group health plans maintained by most employers, including State and local government plans, provide employees and certain family members an opportunity to continue their health care coverage under their plan at group rates upon the occurrence of certain specific events. (Although COBRA does not apply to Federal Government, similar rules may apply.) Qualifying events for an employee include voluntary or involuntary termination of employment for any reason other than "gross misconduct," and the reduction in employment hours which would result in loss of coverage.

Qualifying events for a spouse of an employee include termination of the employee, reduction in the employee's work hours, the death of the employee, divorce or legal separation, or eligibility of the employee for medicare. Qualifying events for a dependent child of an employee include death of the employee, termination of the employee, eligibility of the employee for medicare, and when the dependent ceases to be a "dependent child" under plan rules.

Generally, COBRA covers group health plans maintained by employers that normally employ 20 or more employees on a typical business day during the preceding calendar year. In general, the period that coverage under the plan can extend is 18 months for some situations and 36 months for others.

The Department of Labor, the Department of the Treasury, and the Department of Health and Human Services have regulatory authority over COBRA. The Department of Labor enforces the notification and disclosure requirements. The Department of Treasury enforces the provisions governing such basic matters as what health benefits are subject to the requirements, events that trigger a right to elect continued coverage, the cost of coverage, the exception for plans of small employers, and the effective date. The Department of Health and Human Services has responsibility regarding State and local governmental plans, but generally is to follow interpretative and regulatory positions adopted by the other two agencies.

What To Do

If you are entitled to COBRA benefits, your health plan must give you a notice stating your right to choose to continue benefits provided by the plan. You have 60 days to accept coverage or lose all rights to benefits. Once COBRA coverage is chosen, you are required to pay for the coverage.

If you have a question about COBRA, you should contact your employer or plan administrator. You may also contact the Department that handles that particular area of concern.

Union Participation and Other Protected Activities

The National Labor Relations Act, as amended by the Labor-Management Relations Act, provides employees the right to form, join, or assist labor unions; to bargain collectively through representatives of their own choosing on wages, hours, and other terms of employment; and to engage in other concerted activities for the purpose of collective bargaining or other mutual aid or protection, such as striking to secure better working conditions, or discussion about wages between two or more people. Employees are also guaranteed the right to refrain from membership or participation in a union, except where such membership is a requirement of employment. Laws in some States do not permit union membership to be a requirement of employment. Such laws are referred to as right-to-work laws. In the States where a union membership requirement is permitted, an employee usually has a grace period of not less than 30 days after being hired to become a member.

Certain labor practices by employers are labeled "unfair" and are prohibited by the NLRA. These include interference with or restraint or coercion of employees in the exercise of the rights described above; domination of or interference with the formation or administration of a labor organization, or the contribution of financial or other support to it; discrimination in hiring, tenure, or terms or conditions of employment in order to encourage or discourage membership in a labor organization; discharging or discriminating against an employee for filing charges or giving testimony under the act; and refusing to bargain collectively.

The law also defines practices by unions that are unfair. Such practices include restraining workers or coercing them in the exercise of their rights and requiring them to pay membership or initiation fees that are excessive or that discriminate between members. It is also an unfair practice for a union to cause an employer to discriminate against a worker. Maintaining separate locals for male and female employees is an example of the unfair practice of restraining and coercing employees in the exercise of their right to be represented by a representative of their choosing.

Some types of workers are not covered by the law. These include agricultural laborers, private household workers, independent contractors, supervisors, persons subject to the Railway Labor Act, public employees, and some hospital workers. For further information write the nearest office of the National Labor Relations Board. A local post office can supply the address.

The Labor-Management Reporting and Disclosure Act (LMRDA) provides for the reporting and public disclosure of certain financial transactions and administrative practices of unions, union officers and employees, employers, labor relations consultants, and surety companies. It lays down a set of ground rules governing the use of union trusteeships and establishes democratic standards for union officer elections. It also establishes safeguards for the protection of union funds and property.

The LMRDA includes a bill of rights of members of labor organizations which protects their freedom of speech and assembly and their equal rights to nominate candidates for union office, vote in union elections and referendums, and attend and participate in membership meetings. It guarantees certain rights to union members facing discipline by labor organizations and establishes procedures which a labor organization must follow in increasing dues and initiation fees and imposing assessments. The LMRDA bill of rights establishes the right of an employee to review, or in some cases to obtain, a copy of each collective bargaining agreement directly affecting her or his rights as an employee.

The Department of Labor is responsible for enforcing some provisions of the LMRDA. Other provisions, however, are enforceable only through private suit by union members. For more information contact the Office of Labor Management Standards, U.S. Department of Labor, Washington, DC 20210.

Cheryl A. McNeely was discharged, at least in part, for discussing her salary with another clerical employee. For a number of years the employer had maintained an unwritten rule prohibiting employees from discussing wage rates with other employees. The National Labor Relations Board upheld a finding that the rule violated employees' rights to engage in concerted activities for mutual aid or protection. Jeannette Corporation, *217 NLRB 122 (1975).*

Locals 106 and 245 of the Glass Bottle Blowers Association maintained locals whose memberships were determined solely by sex, providing male and female employees equal but separate treatment. The National Labor Relations Board found that the locals thereby restrained and coerced employees in the exercise of their right to be represented by a representative of their own choosing, in violation of the National Labor Relations Act. Local No. 106, Glass Bottle Blowers Association, AFL-CIO (Owens-Illinois, Inc.) and Local No. 245, Glass Bottle Blowers Association, AFL-CIO (Owens-Illinois, Inc.), *210 NLRB 943 (1974).*

Employee Access to Personnel Files

There is no Federal law which requires employers to allow employees to examine their own personnel files. However, at least 20 States have laws which require some or all employers to allow employees such access. Generally these laws do not cover items such as letters of reference or records relating to an investigation for a criminal offense. Employees of the Federal civil service do have the right to inspect their personnel files. In addition, collective bargaining agreements between unions and employers may also provide for employee access, as may the personnel policies of individual employers.

Assistance for Dependent Care

Federal legislation provides significant support to families for dependent care through tax credits and block grants. Some tax provisions help employees pay for dependent care while other tax credits are designed to maximize choices for working families, whether or not one parent remains at home. The block grants are aimed at increasing the quantity and quality of child care while retaining the range of choices of care providers.

The Child and Dependent Care Tax Credit is available to tax paying families who incur child or dependent care expenses, while working, looking for work or attending school full time, regardless of the gross income of the family. The credit is not refunded to persons who do not earn enough to pay taxes. Married couples are entitled to the credit if *both* spouses work full and/or part time and they file a joint tax return. Divorced or separated parents with custody of a child, single working parents, single parent-students, and full-time students with working spouses are also entitled to the credit. To qualify, the taxpayer must have a child under age 13 or a disabled dependent living at home. The credit is for a portion of the expense paid for care. The maximum expenses for which the credit can be determined is $2,400 for one dependent and $4,800 for two or more. The portion of expenses allowed for credit is adjusted according to the income of the taxpayer. For married couples, the amount of qualified expenses is limited to the earnings of the spouse with the lower income. You may be able to claim the credit if the child or dependent is cared for at the employee's home, at another person's home, or at a day care center. Payments to relatives, such as grandparents or adult children, including those living in the same household, qualify for the credit, provided the relative is not the taxpayer's dependent and the relative's wages are subject to social security taxes. No credit, however, is allowable for wages paid to a child of the taxpayer under age 19. To claim the credit, the taxpayer must provide the name, address, and tax identification number of the care provider. The following table shows the amount of tax credit that may be taken at various family income levels.

Family Income Before Taxes	Percentage Tax Credit	Maximum $ Amount of Credit	
		1 Dependent	2 Or More Dependents
Up to $10,000	30	$720	$1,440
$10,001 to 12,000	29	696	1,392
12,001 to 14,000	28	672	1,344
14,001 to 16,000	27	648	1,296
16,001 to 18,000	26	624	1,248
18,001 to 20,000	25	600	1,200
20,001 to 22,000	24	576	1,152
22,001 to 24,000	23	552	1,104
24,001 to 26,000	22	528	1,056
26,001 to 28,000	21	504	1,008
28,001 and over	20	480	960

Dependent Care Assistance Programs. Some companies offer their employees tax-free dependent care assistance programs (DCAP), covering dependents who are under age 13 or disabled. With few exceptions, the guidelines to qualify for DCAP are similar to the guidelines for the Child and Dependent Care Tax Credit. However, under DCAP, married couples can file separate returns. To establish a DCAP through a salary reduction program there must be a legally enforceable agreement between the employer and employee to reduce the employee's gross income for child or dependent care expenses. The maximum amount that can be reduced in a year is $5,000. For a married couple filing separate returns, the maximum amount that can be reduced from gross income is $2,500.

While an employee may be entitled to claim both DCAP and the Child and Dependent Care Tax Credit, an employee's DCAP expenses reduce, dollar for dollar, expenses claimed under the Child and Dependent Care Tax Credit. For example, assume an employee with one child incurs $4,000 of dependent care expenses of which $1,000 is reduced in wages under a DCAP. The employee can claim the remaining $1,400 of expenses in determining the dependent care tax credit. On the other hand, let us assume another employee with one child incurred $4,000 in dependent care expenses of which $2,400 is covered by DCAP. This employee would not be eligible for the dependent care tax credit because her DCAP expenses match the maximum expenses allowable for claiming the Child and Dependent Care Tax Credit ($2,400). An employer's DCAP cannot discriminate in favor of high-paid employees, but can favor low-income employees who have the hardest time covering their child care costs.

Child Care and Development Block Grant. New Federal legislation provides significant support to families through funding to States, Indian Tribes and Territories. The Child Care and Development Block Grant requires grantees to use 75 percent of the block grant funds for child care services and activities to improve the availability and quality of child care. The remaining 25 percent is to be used, through grants and contracts, to establish, expand and conduct early childhood development before-and-after school care programs. Generally, for families to qualify for services, they must be working or attending a job training or educational program, have a child under age 13 in the household, and have a total family income of less than 75 percent of the State's median income for a family of the same size. Each family's contribution towards the cost of child care is based on a sliding fee scale, which is developed by the State agency administering the child care program. States are required to give priority to very low-income families and to children with special needs. A relative, family day care provider, child care center, religious organization or school can qualify

as a child care provider as long as the provider meets applicable State and local licensing, registration, and safety and health requirements. Parents will have the option to choose providers under contract with the grantee or through a certificate program that each grantee must provide. The new block grant is intended to supplement existing Federal, State and local child care programs.

At-Risk Child Care Program. This child care program is designed to provide child care assistance to low-income working families who are not on welfare but at risk of becoming welfare recipients in the absence of financial assistance for child care. Families must contribute to the cost of the care based on a sliding fee scale developed by the State. Additional eligibility requirements are established by the State.

Earned Income and Related Credits. The Earned Income Credit (EIC) is a cash refund, whether or not the employee earns enough to pay taxes. The employee can claim the EIC in advance with wages or at the end of the tax year. The credit is generally available to employees with earned income less than $21,250 in 1991 (higher amounts for later years) and dependent(s) under age 19 (or age 24, if in school full time). There is no age requirement for a dependent who is permanently and totally disabled. New tax laws expanded the EIC to include a higher benefit level for families with two or more children and a credit for a child under age one. A new child health insurance tax credit was also established as a result of the legislation. These credits are available even if one parent stays home. Employees can claim the credit for a child under age one or the Child and Dependent Care Tax Credit, but not both for the same child. In either case, the employee can still claim EIC and the child health insurance credit. The employee is allowed maximum choice in determining which credit to claim. The child health insurance tax credit, however, can be claimed only when the employee has expenses for health coverage that include children satisfying the age test under the EIC.

Other Programs. There are many Federal, State and local programs benefiting families besides tax credits and block grants. These programs provide an array of assistance to help families meet their employment, training, housing, nutrition, health, social services and income needs.

How To Get Benefits. To receive advanced payment of the Earned Income Credit as part of their salary or wages, taxpayers must file a certificate of eligibility (Form W-5) with their employer. In order to claim any of the tax credits at the end of the taxable year, eligible taxpayers must file a completed Form 1040 or 1040A with appropriate

schedules. Any questions or assistance regarding tax credits can be obtained by contacting your local office of the Internal Revenue Service. To benefit from a Dependent Care Assistance Program (DCAP), you must first determine if a DCAP is being offered by your employer, then apply for the DCAP through your employer's representative. Information and application for State block grants and other Federal programs can be obtained through the local State office of the appropriate agency, for example, human services, housing, social services, education, and training. A list of the offices can be found in the local telephone book under State and/or local governments. The Women's Bureau at the U.S. Department of Labor maintains a Work and Family Clearinghouse to assist employers who wish to establish family benefit programs. The telephone number is 1-800-827-5335.

After Retirement

Social Security

The term social security is popularly used in the United States to refer to the basic national social insurance program—old-age, survivors, disability, and health insurance. The Social Security Act provides for monthly retirement and disability benefits to workers and auxiliary or survivor benefits to families of workers covered by the system. Many persons covered by the act are also entitled to Medicare benefits. (See **Medicare,** this section.)

Workers in approximately 9 out of 10 jobs are covered by social security, including household employees and the self-employed. (Although most Federal workers pay taxes for hospital insurance under the medicare program, they are covered by a separate retirement system. As of January 1, 1984, new Federal employees also were covered by social security.)

Social security is financed primarily through a payroll tax deducted from employees' earnings by employers, who match the contributions, and through social security taxes paid by the self-employed.

Since 1991 the payroll tax for employers and employees has been 7.65 percent, of which 1.45 percent is for Medicare Hospital Insurance (HI). The rate for self-employed persons is 15.30 percent. As of 1990, the law provides for two special deductions designed to treat the self-employed in much the same manner as employees and employers are treated for social security tax purposes. The self-employed are allowed to deduct 7.65 percent from their net earnings before computing their social security tax and may also deduct half of their social security tax as a business expense. Since 1991 the maximum amount of earnings taxed for social security purposes, called the "earnings base," has been $53,400 for Old-Age, Survivors, and

Disability Insurance (OASDI) and $125,000 for Medicare Hospital Insurance. It rises automatically in future years as earnings levels rise. Self-employed workers pay social security contributions based on their net earnings at the same time they pay their Federal income taxes. The contributions are paid to the Internal Revenue Service, and placed in trust funds from which benefits are paid to those eligible. The contributions are not refundable.

A person who has 40 "quarters of coverage" (credit for 10 years of covered employment) is fully insured, which qualifies her or him for all benefits except disability. (Workers who reach age 62 before 1991 are fully insured with fewer quarters of coverage.) To receive credit for one quarter of coverage for social security benefits, a worker must earn a specified amount each year. In 1991, the amount is $540. This amount may increase each year based on increases in average wages. A worker may earn a maximum of four quarters of coverage each year, usually without regard to when the income was earned. For example, a person could earn $2,500 in 1 month, not work for the rest of the year, and receive credit for four quarters of coverage.

Disabled Workers. Workers under age 65 who are mentally or physically disabled and whose disability is expected to prevent them from working in any kind of substantial gainful activity for at least 12 months, or to result in death, may be eligible for monthly social security benefits. To be insured for disability benefits a worker must be fully insured and must have earned at least 5 years of work credit in the 10 years immediately before becoming disabled. (There are less strict requirements if a worker becomes disabled before age 31.) The amount of disability payment is generally computed the same as the retirement benefit at age 65. Benefits generally are payable after a waiting period of 5 full calendar months after the disability starts. Early application is advisable because the procedure for determining eligibility is a lengthy one, and back payments to those who delay in applying are limited to 12 months.

Auxiliary and Survivor Benefits. The spouse of a retired or disabled worker is entitled at age 65 to a benefit equal to 50 percent of the amount of the covered spouse's full benefit. (Actuarially reduced benefits are available beginning at age 62.) Other family members may also be entitled to a benefit equal to 50 percent of the covered worker's full benefit; these include children under age 18 and spouses, regardless of age, who are caring for children under age 16 who are receiving a benefit. However, there is a maximum amount that will be paid to each family. A divorced person can get benefits on a former spouse's earnings record when that spouse retires, becomes disabled, or dies, if the marriage lasted at least 10 years. Effective January 1985, a divorcee can

get spouse benefits at age 62 if her ex-husband is eligible for benefits—whether or not he is actually receiving them—and they have been divorced for at least 2 years. Effective January 1991, the 2-year waiting period is waived if the worker was entitled to benefits prior to the divorce. Persons who are entitled to social security benefits on their own records, as well as benefits as an auxiliary or survivor, receive an amount equal to the higher benefit.

Dependent children of an insured parent who retires, is disabled, or dies include: any unmarried children under age 18; unmarried children between 18 and 19 who are full-time elementary or secondary school students; and unmarried children age 18 or over who become disabled before age 22 and continue to be disabled. Children can get benefits even if the other parent is still working.

A surviving spouse of a worker who was fully insured (including a divorced surviving spouse whose marriage to the worker lasted at least 10 years) may be entitled to benefits on the deceased worker's record. If the surviving spouse starts receiving benefits at age 65, the benefit generally is equal to 100 percent of the deceased spouse's full benefit amount. However, if the deceased spouse had retired before age 65 and received reduced benefits, the survivor's amount is limited to the amount that the deceased spouse would receive if still living, but not less than 82½ percent of the full amount. The benefit for the surviving spouse also includes any credit the deceased worker earned for continuing to work beyond age 65 without drawing benefits. Surviving spouses can elect to start drawing benefits as early as age 60, but if they do, such benefits are reduced, up to a maximum of 28½ percent, depending on how many months remain before their 65th birthday.

A disabled surviving spouse can start drawing benefits as early as age 50, provided the disability that prevents substantial gainful activity began no later than 7 years after the covered spouse died or after the end of entitlement to benefits as a surviving spouse caring for children under age 16. Effective January 1984, benefits for disabled surviving spouses under age 60 were increased from 50 percent to 71.5 percent of the deceased worker's full benefit amount.

In most cases, remarriage terminates the eligibilty of a person under age 60 for benefits as a surviving spouse or a surviving divorced spouse. Remarriage after age 60 does not affect eligibility of a surviving spouse. Benefits also can continue to a surviving divorced spouse who remarries after age 60, or to a disabled surviving spouse who remarries after age 50. Surviving children and surviving spouses (including surviving divorced spouses) who are caring for children under age 16 can get benefits equal to 75 percent of the decreased worker's full benefit subject to the family maximum.

Retired and disabled workers who first become eligible after 1985 for both a social security benefit and a pension based in whole or in part on work not covered by social security will have their social security benefits figured under a different formula. This will result in a lower social security benefit to take account of their years of work outside of covered employment.

Social security benefits to which a person is entitled as a spouse or surviving spouse may be reduced by the amount of any Federal, State, or local pension payable to the survivor from her or his own work in public employment which was not covered by social security. Persons who meet both of the following requirements are not affected by this offset provision which took effect on December 1, 1977: (1) they became eligible for such a public pension before December 1982, and (2) they would have been eligible for the social security spouse's benefit under the law as it was administered in January 1977. Even persons who do not meet the above criteria may be exempt from the offset if both of the following requirements are met: (1) they receive or are eligible to receive their Federal, State, or local government pension before July 1, 1983, and (2) they were receiving at least one-half support from their spouse. Beginning with benefits for June 1983, only two-thirds of the amount of that pension will be counted under this offset provision.

How To Get Benefits. In order to receive social security benefits you must apply for them. The amount of the monthly benefit is determined at the time you apply at the local social security office. The amount is based on your average earnings over a period of years. Currently, you can receive full retirement benefits at age 65 and reduced benefits as early as age 62. But if you retire between age 62 and age 65, there is a permanent reduction up to a maximum of 20 percent in the amount of your benefits, based on the number of months you get retirement checks before you reach age 65. If you choose to work past 65, you get a credit which is added to the amount of your monthly benefit payment.

If you continue to work after you start to receive social security benefits, benefits will be withheld if you have earnings above a certain amount, depending on your age, until you reach age 70. In 1991, for persons 65-69, $1 will be withheld for every $3 in earnings over $9,720, and for persons under age 65, $1 will be withheld for every $2 in earnings over $7,089.

Medicare. Another benefit under the Social Security Act is medicare. Medicare is a health insurance program for people age 65 and over who are eligible for social security or railroad retirement benefits and for certain severely disabled persons under age 65. After 1982 Feder-

al Government employees and certain of their family members became eligible for Medicare Hospital Insurance based on the worker's Federal employment. It is not necessary to retire at age 65 to receive medicare protection.

Medicare consists of a basic compulsory program of hospital insurance (HI) and a voluntary program of supplementary medical insurance (SMI), which includes payments for physicians, home health care, and other services and supplies.

Current information about medicare coverage, premiums, and deductibles, as well as potential retirement benefits is available from local social security offices, listed in the telephone directory under "Social Security Administration."

Pensions

Many workers are covered by private pension plans which supplement their social security benefits in retirement. Although some plans are personal, such as individual retirement accounts, the majority are sponsored by employers or unions, or jointly by employers and unions. Employer-sponsored plans may be financed either entirely by the employer, or by employers with employee contributions.

Pension plans are generally classified as either defined benefit or defined contribution plans. In *defined benefit plans* the amount of the benefit is fixed, but not the amount of contribution. These plans usually determine benefits under a formula based on years of service and earnings or a stated dollar amount. In *defined benefit plans*, the amount of contributions is generally fixed, but the amount of benefits is not. These plans usually involve profit sharing, stock bonus or money purchase arrangements where the employer's contribution is allocated to the participants' individual accounts. The eventual benefit is the account balance, i.e., contributions plus investment earnings, minus investment losses and plan expenses.

In 1974 Congress enacted the Employee Retirement Income Security Act (ERISA) to protect the interest of American workers and their beneficiaries who depend on benefits from employee pension and welfare plans. ERISA requires disclosure of plan provisions and financial information; establishes standards of conduct for trustees and administrators of welfare and pension plans; and sets up funding, participation, and vesting requirements for pension plans and an insurance system for certain defined benefit plans that terminate without enough money to pay benefits. ERISA does not require that employers establish pension plans, nor does it set benefit levels. *The law prohibits discharging a worker in order to avoid paying a pension benefit.* The Economic Recovery Tax Act of 1981 provides that employed persons and their nonworking spouses may put aside a certain amount of

income each year in an individual retirement account (IRA). The Tax Reform Act of 1986 restricts the use of IRA's.

In 1984 Congress enacted the Retirement Equity Act (REA) which amended ERISA to make it possible for a larger proportion of workers to benefit from a private pension plan and to remove some of the barriers women face in receiving benefits as both workers and as spouses. REA generally became effective January 1, 1985, but in some cases the effective date was as late as January 1, 1987.

The Department of Labor and the Internal Revenue Service share responsibility for administration of the law. The pension plan termination insurance program is administered by the Pension Benefit Guaranty Corporation.

Participation. With some exceptions, a pension plan that bases eligibility for participation on age and service cannot deny or postpone participation on those grounds beyond the time the employee reaches age 21 and completes 1 year of service. However, all service from age 18 must be counted toward vesting. One year of service is defined as a 12-month period during which the employee has at least 1,000 hours of service, although there are exceptions for some industries. The Omnibus Budget Reconciliation Act of 1989 (OBRA '89) provides that employees cannot be denied participation in a pension plan on the basis of obtaining a maximum age. This rule became effective for plan years beginning after January 1, 1988. In addition, plans may not reduce the rate that benefits are accrued on the basis of age.

Vesting. Accumulated benefits are "vested" when employees have a nonforfeitable right to receive benefits at retirement, even if they should leave the job before retirement age. Benefits may be partially or fully vested.

Accumulated benefits from the employee's own contributions, if any, must be fully and immediately vested. In order to preserve an employee's right to accumulate benefits contributed by an employer if the employee leaves the job before retiring, ERISA requires that accrued benefits be vested at least as fast as provided under one of the three vesting schedules.

1986 amendments to ERISA provide two alternate vesting schedules: (1) 100 percent vested after completion of 5 years of service; or (2) 20 percent vested after 3 years of service, 40 percent vested after 4 years, 60 percent vested after 5 years, 80 percent vested after 6 years, and 100 percent vested at the end of 7 years of service. Participants in multiemployer plans must be fully vested after no more than 10 years of service. Periods of service may be disregarded for vesting purposes under certain circumstances.

ERISA has limited the circumstances in which interruption in employment known as a break in service results in the loss of pension

benefits accrued before the interruption. Plans cannot penalize participants for breaks in service that are shorter than 5 years. A break in service can mean an employee may lose credit for all or part of his or her prior service for the accrual of benefits or the calculation of the number of years required to vest. A break in service only occurs when an employee works 500 hours or less in a calendar or plan year. Since a break in service can have very serious consequences, you should carefully examine your plan's "hour of service," "year of service," and "break in service" rules so that you do not inadvertently and unnecessarily lose the pension benefits you have accrued. Remember, these are minimum standards only. Plans can be more liberal than ERISA requires. In addition ERISA provides for up to 501 hours of credit toward a year of service for employees who are absent from work for maternity, paternity, or child rearing purposes including the care of an adopted child.

A few plans permit a worker to change jobs after having acquired a vested right to retirement benefits and have the benefits transferred from the pension funds of one employer to that of another. If a person receives a lump sum payout of vested benefits because of leaving before retirement or because the plan is terminated, current taxes can be avoided by depositing the funds in an IRA. (For more information on IRA's, see the "Personal Plans" section.)

Survivor Protection. All pension plans are required to provide the option of receiving benefits through an annuity upon retirement (that is, an income for a specified period of time or for life). Pension plans must also provide for a "joint and survivor annuity," unless the participant and his/her spouse elect in writing to waive the survivor option. A joint and survivor annuity supports the survivor(s) in the event of death of either the husband or wife. The amount of the plan participant's annuity may be reduced to make a reasonable adjustment for providing the survivor annuity, but the amount of the annuity paid to the spouse must be at least one-half of the annuity paid to the participant while both were living.

Under ERISA, all married participants with vested benefits in a pension plan must be provided with a preretirement survivor annuity which would provide benefits to the surviving spouse if the participant dies before retirement. The preretirement annuity and the joint and survivor annuity may be waived only with the consent of the participant's spouse. For a nonparticipant spouse to be eligible for survivor benefits, a plan can require only that she or he and the participant be married for a 1-year period ending on the earlier of (1) the starting date of the participant's annuity or (2) the date of the participant's death.

Benefits for Divorced Spouses. Under ERISA the plan administrator must honor a court order, known as a qualified domestic relation ord-

er (QDRO), entered after January 1, 1985, directing the plan to pay part or all of the participant's benefits to the participant's former spouse for child support, alimony, or in settlement of marital property rights.

Integration with Social Security. ERISA permits plan administrators to offset or otherwise take into account the pension benefit paid by the amount of social security benefit the retiree receives. The 1986 tax law revised the integration rules in an attempt to assure that all participants receive meaningful benefits.

Right to Information. ERISA requires administrators of plans covered by the law to furnish participants and beneficiaries summary descriptions of what the plans provide and how they operate.

Participants are also entitled to receive a summary of the annual financial report and upon written request (but not more than once in a 12-month period) a statement indicating total benefits accumulated and the nonforfeitable benefits, if any, accumulated, or the earliest date on which the benefits will become nonforfeitable.

For more information about rights of pension plan participants under ERISA and about protection in the event of plan termination, contact the Pension and Welfare Benefits Administration of the U.S. Department of Labor and the Pension Benefit Guaranty Corporation. Addresses are listed in Appendix A.

Personal Plans

Since 1981 the Federal income tax laws have encouraged individuals to set up personal retirement plans by allowing tax advantages for plans established according to IRS regulations. Contributions to these plans, which are subject to specific legal requirements, may be fully or partially deducted from income for tax purposes, and the income earned on the contributions will be exempt from taxes until the money is withdrawn from the account. There are two types of personal plans—individual retirement accounts (IRA's), which any employed person may establish, and Keogh, or HR-10 plans, which are designed for self-employed persons and their employees.

Beginning in 1987, the new tax law placed restrictions on deductions claimed by high earners who participate in company sponsored plans. All of the earnings accumulated on these special accounts are tax free until the earnings are withdrawn, usually after retirement when the individual is likely to be in a lower tax bracket. Contributions to IRA's on which no income tax has been paid are also taxed after withdrawal. There is a penalty for withdrawing funds before age 59½, except for disabled workers.

The new tax law also permits employees to contribute to simplified employee pension plans known as SEP's. Employers with less than 25 employees may establish an SEP which is like an IRA. Employees may now annually put as much as $7,000 of their pretax pay into their SEP account on a salary reduction basis.

Keogh or HR-10 plans permit self-employed individuals to put a portion of their earnings each year tax free into a fund that can earn tax free income until it starts paying out at retirement. Keogh plans generally are subject to the same standards and regulations as other types of pension plans. For information about tax saving retirement plans, contact the nearest IRS office listed in the telephone directory under "United States Government, Internal Revenue Service."

Appendix A

Sources of Assistance

FEDERAL AGENCIES

National Offices

U.S. Equal Employment Opportunity Commission
Washington, DC 20507

Civil Rights Division
U.S. Department of Health and Human Services
Washington, DC 20201

Social Security Administration
U.S. Department of Health and Human Services
Baltimore, MD 21235

Internal Revenue Service
U.S. Department of the Treasury
Washington, DC 20224

Office of Revenue Sharing
U.S. Department of the Treasury
Washington, DC 20226

Federal Trade Commission
Washington, DC 20580

Pension Benefit Guaranty Corp.
2020 K Street, NW.
Washington, DC 20006

Office of Labor Management Standards
U.S. Department of Labor
Washington, DC 20210

Pension and Welfare Benefits Administration
U.S. Department of Labor
Washington, DC 20210

Occupational Safety and Health Administration
U.S. Department of Labor
Washington, DC 20210

Office of Federal Contract Compliance Programs
Employment Standards Administration
U.S. Department of Labor
Washington, DC 20210

Office of Workers' Compensation Programs
Employment Standards Administration
U.S. Department of Labor
Washington, DC 20210

Women's Bureau
Office of the Secretary
U.S. Department of Labor
Washington, DC 20210

Wage and Hour Division
Employment Standards Administration
U.S. Department of Labor
Washington, DC 20210

Veterans' Employment and Training Service
U.S. Department of Labor
Washington, DC 20210

U.S. Department of Labor

Regional Offices

Telephone numbers for agencies within the U.S. Department of Labor regional offices, such as the Women's Bureau, Office of Federal Contract Compliance Programs, Veterans' Employment and Training Service, Wage and Hour Division, etc., are listed in the state or local telephone directory under the "United States Department of Labor."

Boston: U.S. Department of Labor, 1 Congress Street, Massachusetts 02114. (Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, Vermont)

New York: U.S. Department of Labor, 201 Varick Street, New York 10014. (New Jersey, New York, Puerto Rico, Virgin Islands)

Philadelphia: U.S. Department of Labor, Gateway Building, 3535 Market Street, Pennsylvania 19104. (Delaware, District of Columbia, Maryland, Pennsylvania, Virginia, West Virginia)

Atlanta: U.S. Department of Labor, 1371 Peachtree Street, NE., Georgia 30367. (Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, Tennessee)

Chicago: U.S. Department of Labor, New Federal Building, 230 South Dearborn Street, Illinois 60604. (Illinois, Indiana, Michigan, Minnesota, Ohio, Wisconsin)

Dallas: U.S. Department of Labor, 525 Griffin Street, Federal Building, Texas 75202. (Arkansas, Louisiana, New Mexico, Oklahoma, Texas)

Kansas City: U.S. Department of Labor, Federal Office Building, 911 Walnut Street, Missouri 64106. (Iowa, Kansas, Missouri, Nebraska)

Denver: U.S. Department of Labor, Federal Office Building, 1801 California Street, Colorado 80202-2614. (Colorado, Montana, North Dakota, South Dakota, Utah, Wyoming)

San Francisco: U.S. Department of Labor, 71 Stevenson Street, California 94105. (Arizona, California, Hawaii, Nevada)

Seattle: U.S. Department of Labor, 1111 Third Avenue, Washington 98101-3211. (Alaska, Idaho, Oregon, Washington)

Appendix B

State Agencies

Labor Departments and Human Rights Commissions

Alabama: Department of Industrial Relations, Industrial Relations Building, Montgomery, 36130.

Alaska: Department of Labor, P.O. Box 21149, Juneau, 99802. Alaska State Commission for Human Rights, 800 "A" Street, Suite 202, Anchorage, 99501.

Arizona: Department of Labor, 800 West Washington Street, 3rd Floor, P.O. Box 19070, Phoenix, 85005. Arizona Civil Rights Division, 1275 West Washington, Phoenix, 85007.

Arkansas: Department of Labor, 10421 West Markham, Little Rock, 72202.

California: Department of Industrial Relations, 395 Oyster Point Boulevard, San Francisco, 94101. Department of Fair Employment and Housing, 1201 I Street, Sacramento, 95814.

Colorado: Department of Labor and Employment, 600 Grant Street, Suite 900, Denver, 80203. Colorado Civil Rights Commission, 1525 Sherman, Room 600C, Denver, 80203.

Connecticut: Labor Department, 200 Folly Brook Boulevard, Wethersfield, 06109. Commission on Human Rights and Opportunities, 90 Washington Street, Hartford, 06106.

Delaware: Department of Labor, 820 North French Street, Wilmington, 19801. (Includes Anti-Discrimination Section.)

District of Columbia: D.C. Department of Employment Services, 500 C Street, NW., Suite 600, Washington, DC. 20001. Office of Human Rights, 2000 14th Street, NW., Washington, DC. 20009.

Florida: Department of Labor and Employment Security, Hartman Building, 2012 Capitol Circle, SE., Tallahassee, 32301. Commission on Human Relations, 325 John Knox Road, Suite 240, Building F, Tallahassee, 32399-1570.

Georgia: Department of Labor, Sussex Place, 148 International Building, NE., Atlanta, 30303.

Guam: Department of Labor, Government of Guam, Box 9970, Tamuning, Guam, 96931-9970.

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Hawaii: Department of Labor and Industrial Relations, 830 Punchbowl Street, Honolulu, 96813. Department of Labor and Industrial Relations, Labor Law Enforcement (for discrimination complaints), 888 Mililani Street, Room 401, Honolulu, 96813.

Idaho: Department of Labor and Industrial Services, Statehouse Mail, 227 North 6th Street, Boise, 83720. Commission on Human Rights, 450 W. State, 1st Floor, Boise, 83720.

Illinois: Department of Labor, 310 South Michigan Avenue, 10th Floor, Chicago, 60604, Department of Human Rights, 100 West Randolph Street, Chicago, 60601.

Indiana: Department of Labor, Room 1013, State Office Building, 100 North Senate Avenue, Indianapolis, 46204. Civil Rights Commission, 32 East Washington Street, Indianapolis, 46204-3526.

Iowa: Division of Labor, 1000 East Grand Avenue, Des Moines, 50319. Civil Rights Commission, 211 East Maple Street, c/o State Mailroom, Des Moines, 50319.

Kansas: Department of Human Resources, 401 SW., Topeka Boulevard, Topeka, 66603. Commission on Civil Rights, 900 SW., Jackson Street, Topeka, 66612-1258.

Kentucky: Labor Cabinet, U.S. 127 South Building, Frankfort, 40601, Commission on Human Rights, 832 Capitol Plaza Tower, Frankfort, 40601.

Louisiana: Department of Labor, 1045 State Land and Natural Resources Building, P.O. Box 94094, Baton Rouge, 70804-9904.

Maine: Department of Labor, 20 Union Street, P.O. Box 309, Augusta, 04332-0309. Human Rights Commission, State House, Station 51, Augusta, 04333.

Maryland: Department of Labor and Industry, 501 St. Paul Place, Baltimore, 21202. Commission on Human Relations, 20 East Franklin Street, Baltimore, 21202-2274.

Massachusetts: Department of Labor and Industries, Salton Stall Office Building, Government Center, 100 Cambridge Street, Room 1100, Boston, 02202. Commission Against Discrimination, 1 Ashburton Place, Suite 601, Boston, 02108.

Michigan: Department of Labor, North Washington Square, P.O. Box 30015, Lansing, 48909. Department of Civil Rights, 303 West Kalamazoo, Lansing, 48913.

Minnesota: Department of Labor and Industry, Space Center, 5th Floor, 443 Lafayette Road, St. Paul, 55155. Department of Human Rights, 5th Floor, Bremer Tower, 7th Place and Minnesota Street, St. Paul, 55101.

Mississippi: Workers' Compensation Commission, P.O. Box 5300, Jackson, 39216.

Missouri: Department of Labor and Industrial Relations, P.O. Box 504, Jefferson City, 65102. Commission on Human Rights, 315 Ellis Boulevard, P.O. Box 1129, Jefferson City, 65102-1129.

Montana: Department of Labor and Industry, P.O. Box 1728, Helena, 59624. Human Rights Division, 1236 6th Avenue, P.O. Box 1728, Helena, 59624.

Nebraska: Department of Labor, 550 South 16th Street, Box 94600, State House Station, Lincoln, 68509. Equal Opportunity Commission, 301 Centennial Mall, South, P.O. Box 94934, Lincoln, 68509-4934.

Nevada: Labor Commission, 505 East King Street, Room 602, Carson City, 89710. Equal Rights Commission, 1515 East Tropicana, Las Vegas, 89158.

New Hampshire: Department of Labor, 19 Pillsbury Street, Concord, 03301. Commission for Human Rights, 163 Loudon Road, Concord 03301.

New Jersey: Department of Labor, P.O. Box CN 110, Trenton, 08625. Division on Civil Rights, 1100 Raymond Boulevard, Newark, 07102.

New Mexico: Labor Department, P.O. Box 1928, Albuquerque, 87103. Human Rights Commission, 1596 Pacheco Street, Santa Fe, 87502.

New York: Department of Labor, State Campus Building 12, Albany, 12240. Division of Human Rights, 55 West 125th Street, New York, 10027.

North Carolina: Department of Labor, 4 West Edenton Street, Raleigh, 27601. Human Relations Council, 116 West Jones Street, Raleigh, 27611.

North Dakota: Department of Labor, State Capitol, 6th Floor, Bismarck, 58505. Human Rights, State Capitol, 5th Floor, Bismarck, 58505.

Ohio: Department of Industrial Relations, 2323 West 5th Avenue, Columbus, 43216. Civil Rights Commission, 220 Parsons Avenue, Columbus, 43266.

Oklahoma: Department of Labor, 1315 North Broadway Place, Oklahoma City, 73103-4817. Human Rights Commission, Room 480, Jim Thorpe Building, 2101 North Lincoln Boulevard, Oklahoma City, 73105.

Oregon: Bureau of Labor and Industries, State Office Building, 1400 SW. 5th Avenue, Portland, 97201. (Includes Civil Rights Division.)

Pennsylvania: Department of Labor and Industry, 1700 Labor and Industry Building, 7th & Forster Streets, Harrisburg, 17120. Human Relations Commission, 101 South Second Street, Suite 300, P.O. Box 3145, Harrisburg, 17105.

Puerto Rico: Department of Labor and Human Resources, 505 Munoz Rivera Avenue, G.P.O. Box 3088, Hato Rey, 00918. Civil Rights Commission, 112 Juan B. Huyke Street, P.O. Box 2338, Hato Rey, 00919.

Rhode Island: Department of Labor, 220 Elmwood Avenue, Providence, 02907. Commission for Human Rights, 10 Abbott Park Place, 1st Floor, Providence, 02903-3768.

South Carolina: Department of Labor, 3600 Forest Drive, P.O. Box 11329, Columbia, 29211. Human Affairs Commission, P.O. Box 11009, Columbia, 29211.

South Dakota: Department of Labor, 700 Governors Drive, Pierre, 57501. Division of Human Rights, Pierre, 57501-5070.

Tennessee: Department of Labor, 501 Union Bldg., 2nd Floor, Nashville, 37243. Human Rights Commission, Capital Boulevard Building, Room 602, 226 Capitol Boulevard, Nashville, 37219-5095.

Texas: Texas Employment Commission, 101 East 15th Street, Room 638, Austin, 78778. Commission on Human Rights, P.O. Box 2960, Austin, 78769.

Utah: Industrial Commission, 160 East 300 South, P.O. Box 510910, Salt Lake City, 84151-0900. Anti-Discrimination Division, 160 East 300 South, P.O. Box 510910, Salt Lake City, 84151-0910.

Vermont: Department of Labor and Industry, State Office Building Montpelier, 05602. Public Protection Division, Office of the Attorney General, 109 State Street, Montpelier, 05602.

Virginia: Department of Labor and Industry, P.O. Box 12064, Richmond, Office of Civil Rights, 1503 Santa Rosa Road, Richmond, 23288.

Virgin Islands: Department of Labor, 22 Hospital Street, Christiansted, St. Croix, 00820. Civil Rights Commission, P.O. Box 6645, St. Thomas, 00804.

Washington: Department of Labor and Industries, General Administration Building, Olympia, 98504. Human Rights Commission, 402 Evergreen Plaza Building, FJ-41, Olympia, 98504-3341.

West Virginia: Department of Labor, State Capitol Complex, Building #3, 1800 Washington Street, East Charleston, 25305. Human Rights Commission, 215 Professional Building, 1036 Quarrier Street, Charleston, 25301,

Wisconsin: Department of Industry, Labor and Human Relations, 201 East Washington Avenue, P.O. Box 7946, Madison, 53707. Equal Rights Division, P.O. Box 8928, Madison, 53708.

Wyoming: Department of Labor and Statistics, Herschler Bldg., Cheyenne, 82002. Fair Employment Commission, Herschler Bldg., 2nd Floor, 122 North 25th Street, Cheyenne, 82002.

Appendix C

SAMPLE COMPLAINT FORMS

Employment Information Form

U.S. Department of Labor
Employment Standards Administration
Wage and Hour Division

This report is authorized by Section 11 of the Fair Labor Standards Act. While you are not required to respond, submission of this information is necessary for the Division to schedule any compliance action. Your identity will be kept confidential to the maximum extent possible under existing law.

OMB No. 1215-0001
Expires: 08-30-92

1. Person Submitting Information

A. Name (Print first name, middle initial, and last name)
Mr.
Miss
Mrs.
Ms.

B. Date

C. Telephone number (Or No. where you can be reached)

D. Address: (Number, Street, Apt. No.)

(City, County, State, ZIP Code)

E. Check one of these boxes

☐ Present employee of establishment ☐ Former employee of establishment ☐ Other _____ (Specify: relative, union, etc)

2. Establishment Information

A. Name of establishment

B. Telephone Number

C. Address of establishment: (Number, Street)

(City, County, State, ZIP Code)

D. Estimate number of employees

E. Does the firm have branches? ☐ Yes ☐ No ☐ Don't know

If "Yes", name one or two locations

F. Nature of establishment's business: (For example, school, farm, hospital, hotel, restaurant, shoe store, wholesale drugs, manufactures stoves, coal mine, construction, trucking, etc.)

G. If the establishment has a Federal Government or federally assisted contract, check the appropriate box(es)

☐ Furnishes goods ☐ Furnishes services ☐ Performs construction

H. Does establishment ship goods to or receive goods from other States?

☐ Yes ☐ No ☐ Don't know

3. Employment Information (Complete A, B, C, D, E, & F if present or former employee of establishment; otherwise complete F only)

A. Period employed (month, year)

From: _____

To: _____ (If still there, state present)

B. Date of birth if under 19

Month _____ Day _____ Year _____

C. Give your job title and describe briefly the kind of work you do

(Continue on other side)

Form WH-3
Rev. 10/89

D. Method of payment

$ _____ (Rate) per _____ (Hour, week, month, etc.)

E. Enter in the boxes below the hours you usually work each day and each week (less time off for meals)

M	T	W	T	F	S	S	Total

F. **Check the appropriate box(es) and explain briefly in the space below the employment practices which you believe violate the Wage and Hour laws.** (If you need more space use an additional sheet of paper and attach it to this form.)

- ☐ Does not pay the minimum wage
- ☐ Does not pay proper overtime
- ☐ Does not pay prevailing wage determination for Federal Government or federally assisted contract

  Approximate date of alleged discrimination _____
- ☐ Discharged employee because of wage garnishment (explain below)
- ☐ Excessive deduction from wages because of wage garnishment (explain below)
- ☐ Employs minors under minimum age for job
- ☐ Other (explain below)

_____

_____

_____

_____

_____

_____

_____

_____

_____

_____

_____

_____

(Note: If you think it would be difficult for us to locate the establishment or where you live, give directions or attach map.)

Complaint Taken By:

_____

_____

_____

Public Burden Statement

We estimate that it will take an average of 20 minutes to complete this collection of information, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Information Management, U.S. Department of Labor, Room N1301, 200 Constitution Avenue, N.W., Washington, D.C. 20210; and to the Office of Management and Budget, Paperwork Reduction Project (1215-0001), Washington, D.C. 20503.

NOTICE OF NON-RETALIATION REQUIREMENT

Section 704(a) of the Civil Rights Act of 1964, as amended, states:

It shall be an unlawful employment practice for an employer to discriminate against any of his employees or applicants for employment, for an employment agency to discriminate against any individual, or for a labor organization to discriminate against any member thereof or applicant for membership because he has opposed any practice made an unlawful employment practice by this title, or because he has made a charge, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under this title.

Persons filing charges of employment discrimination are advised of this Non-Retaliation Requirement and are instructed to notify the Equal Employment Opportunity Commission if any attempt at retaliation is made.

PRIVACY ACT STATEMENT

(This form is covered by the Privacy Act of 1974, Public Law 93-579. Authority for requesting and uses of personal data are given below.)

1. **FORM NUMBER/TITLE/DATE**
   EEOC Form 5C, Charge of Discrimination, March 79.

2. **AUTHORITY**
   42 USC2000e-5(b)

3. **PRINCIPAL PURPOSE(S)** The purpose of the charge, whether recorded initially on Form 5C or abstracted from a letter, is to invoke the Commission's jurisdiction.

4. **ROUTINE USES** Information provided on this form will be used by Commission employees to determine the existence of facts relevant to a decision as to whether the Commission has jurisdiction over potential charges, and to provide such pre-charge filing counseling as is appropriate.

   Other uses may include the following: (1) to conduct compliance reviews with State, local and Federal agencies, such as the Office of Federal Contract Compliance Programs, Department of Justice, Department of Labor, and other Federal agencies as may be appropriate or necessary to carrying out the Commission's functions; (2) disclosure to State and local agencies administering State or local fair employment practices laws; (3) disclosure to the following person(s) in contemplation of or in connection with Title VII litigation: (a) charging parties and their attorneys; (b) aggrieved persons in cases involving Commissioner charges and their attorneys; (c) persons or organizations filing on behalf of an aggrieved person, provided that the aggrieved person has given written authorization to the person who filed on his or her behalf to act as the aggrieved person's agent for this purpose, and their attorneys; (d) employees of Commission-funded groups, such as the Mexican-American Legal Defense and Education Fund and and Lawyer's Committee for Civil Rights under Law for the purpose of reviewing information in case files to determine the appropriateness of referral to private attorneys as a service to charging parties, provided that the Commission-funded group is reviewing this information at your request; (e) respondents and their attorneys, provided that you have filed suit under Title VII against that respondent, and (f) persons who have filed, or are contemplating filing a Title VII suit against the same respondent you have named in your charge, provided that information about you and your charge is relevant and material to that person's case; (4) disclosure of the status of the processing of a charge of employment discrimination may be made to a Congressional office from the record of an individual in response to an inquiry from the Congressional office made at the request of that individual.

5. Charges must be in writing and identify the parties and action or policy complained of. Failure to comply may result in the Commission not accepting the charge. Charges must be sworn to or affirmed but may be cured later by amendment. It is not mandatory that this form be used to provide the requested information.

CHARGE OF DISCRIMINATION

This form is affected by the Privacy Act of 1974; see Privacy Act Statement on reverse before completing this form.

ENTER CHARGE NUMBER
☐ FEPA
☐ EEOC

_____ and EEOC
(State or local Agency, if any)

NAME (Indicate Mr., Ms., or Mrs.) | HOME TELEPHONE NO. (Include Area Code)

STREET ADDRESS | CITY, STATE AND ZIP CODE | COUNTY

NAMED IS THE EMPLOYER, LABOR ORGANIZATION, EMPLOYMENT AGENCY, APPRENTICESHIP COMMITTEE, STATE OR LOCAL GOVERNMENT AGENCY WHO DISCRIMINATED AGAINST ME (If more than one list below.)

NAME | NO. OF EMPLOYEES/MEMBERS | TELEPHONE NUMBER (Include Area Code)

STREET ADDRESS | CITY, STATE AND ZIP CODE

NAME | TELEPHONE NUMBER (Include Area Code)

STREET ADDRESS | CITY, STATE AND ZIP CODE

CAUSE OF DISCRIMINATION BASED ON (Check appropriate box(es))
☐ RACE ☐ COLOR ☐ SEX ☐ RELIGION ☐ NATIONAL ORIGIN
☐ AGE ☐ RETALIATION ☐ OTHER (Specify)

DATE MOST RECENT OR CONTINUING DISCRIMINATION TOOK PLACE (Month, day, year)

THE PARTICULARS ARE (If additional space is needed, attached extra sheet(s)):

☐ I also want this charge filed with the EEOC.
I will advise the agencies if I change my address or telephone number and I will cooperate fully with them in the processing of my charge in accordance with their procedures.

I declare under penalty of perjury that the foregoing is true and correct.

Date | Charging Party (Signature)

NOTARY - (When necessary to meet State and Local Requirements)

I swear or affirm that I have read the above charge and that it is true to the best of my knowledge, information and belief.

SIGNATURE OF COMPLAINANT

SUBSCRIBED AND SWORN TO BEFORE ME THIS DATE
(Day, month, and year)

EEOC FORM 5 MAR 84 PREVIOUS EDITIONS OF THIS FORM ARE OBSOLETE AND MUST NOT BE USED

FILE COPY

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PRIVACY ACT STATEMENT

(This form is covered by the Privacy Act of 1974, Public Law 93-579: Authority for requesting the personal data and the uses are given below.)

1. FORM NUMBER/TITLE/DATE. EEOC Form 5, CHARGE OF DISCRIMINATION, March 1984.

2. AUTHORITY. 42 U.S.C. § 2000e-5(b), 29 U.S.C. §211, 29 U.S.C. § 626.

3. PRINCIPAL PURPOSE(S). The purpose of the charge, whether recorded initially on this form or in some other way reduced to writing and later recorded on this form, is to invoke the jurisdiction of the Commission.

4. ROUTINE USES. This form is used to determine the existence of facts which fall within the Commission's jurisdiction to investigate, determine, conciliate and litigate charges of unlawful employment practices. Information provided on this form will be used by Commission employees to guide the Commission's investigatory activities. This form may be disclosed to other State, local and federal agencies as may be appropriate or necessary to carrying out the Commission's functions. A copy of this charge will ordinarily be served upon the person against whom the charge is made.

5. WHETHER DISCLOSURE IS MANDATORY OR VOLUNTARY AND EFFECT ON INDIVIDUAL FOR NOT PROVIDING INFORMATION. Charges must be in writing and should identify the parties and action or policy complained of. Failure to have a charge which identifies the parties in writing may result in the Commission not accepting the charge. Charges under Title VII must be sworn to or affirmed. Charges under the ADEA should ordinarily be signed. Charges may be clarified or amplified later by amendment. It is not mandatory that this form be used to provide the requested information.

6. [ ] Under Section 706 of Title VII of the Civil Rights Act of 1964, as amended, this charge will be deferred to and will be processed by the State or local agency indicated. Upon completion of the agency's processing, you will be notified of its final resolution in your case. If you wish EEOC to give Substantial Weight Review to the agency's findings, you must send us a request to do so, in writing, within fifteen (15) days of your receipt of the agency's finding. Otherwise, we will adopt the agency's finding as EEOC's and close your case.

NOTICE OF NON-RETALIATION REQUIREMENTS

Section 704(a) of the Civil Rights Act of 1964, as amended, and Section 4(d) of the Age Discrimination in Employment Act of 1967, as amended, state:

It shall be an unlawful employment practice for an employer to discriminate against any of his employees or applicants for employment, for an employment agency to discriminate against any individual, or for a labor organization to discriminate against any member thereof or applicant for membership, because he has opposed a practice made an unlawful employment practice by this title or because he has made a charge, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under this title.

The Equal Pay Act of 1963 contains similar provisions. Persons filing charges of discrimination are advised of these Non-Retaliation Requirements and are instructed to notify EEOC if any attempt at retaliation is made.

BEST COPY AVAILABLE

Form Approved
OMB No. 0920-0102
Exp. Date Aug. 31, 1992

U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES
CENTERS FOR DISEASE CONTROL
NATIONAL INSTITUTE FOR OCCUPATIONAL SAFETY AND HEALTH

REQUEST FOR HEALTH HAZARD EVALUATION

This form is provided to assist in registering a request for a health hazard evaluation with the U.S. Department of Health and Human Services. Public reporting burden for this collection of information is estimated to average 12 minutes per response. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden to PHS Reports Clearance Officer; ATTN: PRA, Hubert H. Humphrey Bg, Rm 721-H; 200 Independence Ave., SW: Washington, DC 20201, and to the Office of Management and Budget; Paperwork Reduction Project (0920-0102); Washington, DC 20503. (See Statement of Authority on Reverse Side)

Establishment Where Possible Hazard Exists _____
Company Street _____ Telephone _____
Address
City _____ State _____ Zip Code _____

1. Specify the particular building or worksite where the possible hazard/problem is located.

2. Specify the name, title, and phone number of the employer's agent(s) in charge.

3. What Product or Service does the Establishment Produce?

4. Describe briefly the possible hazard/problem which exists by completing the following:

   Identification of Hazardous Physical Agent(s) _____

   Identification of Toxic Substance(s) _____

   Trade Name(s) (If Applicable) _____ Chemical Name(s) _____

Manufacturer(s) _____
Physical Form of Substance(s): ___Dust ___Gas ___Liquid ___Mist ___Other
How are you exposed? ___Breathing ___Swallowing ___Skin Contact
Number of People Exposed _____ Length of Exposure (Hours/Day) _____
Occupations of Exposed Employees _____

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5. Using the space below describe further the circumstances which prompted this request. _____

_____

_____

6. To your knowledge has NIOSH, OSHA or any other government agency previously evaluated this workplace? ____yes ____no

7. (a) Is a similar request currently being filed with or under investigation by any other Government (State or Federal) agency? _____
(b) If so, give the name and address of each_____

_____

8. Requester's Signature_____ Date_____
Typed or Printed Name_____Phone: Home-_____
Street_____Business-_____
Address
City_____State_____Zip Code_____

9. Check only One of the Following:
_____ I am an Employer Representative
_____ I am an Authorized Representative of, or an officer of the organization representing the employees for purposes of collective bargaining. State the name and address of your organization.

_____

_____

_____ I am a current employee of the employer and an Authorized Representative of two or more current employees in the workplace where the substance is normally found. Signatures of authorizing employees are below:

Name_____ Phone_____
Name_____ Phone_____

_____ I am one of three or less employees in the workplace where the substance is normally found.

10. Please indicate your desire: ____ I do not want my name revealed to the employer.
____ My name may be revealed to the employer.

_____

Authority:
Sections 20(a)(3-6) of the Occupational Safety and Health Act, (29 U.S.C. 669(a)(6)) and Section 501(a)(11) of the Federal Mine Safety and Health Act, (30 U.S.C. 951(a)(11)). Confidentiality of the respondent requester will be maintained in accordance with the provisions of the Privacy Act (5 U.S.C. 552a). The voluntary cooperation of the respondent requester is necessary to conduct the Health Hazard Evaluation.

_____

For Further Information:
Telephone: AC 513/841-4382

Send the completed form to:
National Institute for Occupational Safety and Health
Hazard Evaluations and Technical Assistance Branch
4676 Columbia Parkway, Mail Stop R-9
Cincinnati, Ohio 45226

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Appendix D
RESOURCES

TITLE VII

Title VII Enforces Job Rights, October 1988, U.S. Equal Employment Opportunity Commission, Office of Communications and Legislative Affairs, Washington, DC 20507.

The Charging Party, Your Rights and Responsibilities, February 1990, U.S. Equal Employment Opportunity Commission, Office of Communications and Legislative Affairs, Washington, DC 20507.

EXECUTIVE ORDER 11246

OFCCP: Making EEO and Affirmative Action Work, OFCCP-28, January 1987, U.S. Department of Labor, Employment Standards Administration, Office of Contract Compliance Programs.

EEO and Affirmative Action Guidelines for Federal Contractors Regarding Race, Color, Sex, Religion and National Origin, Fact Sheet ESA 89-17, U.S. Department of Labor.

DISCRIMINATION BASED ON AGE

Age Discrimination Is Against the Law, October 1988, U.S. Equal Employment Opportunity Commission, Office of Communications and Legislative Affairs, Washington, DC 20507.

DISCRIMINATION BASED ON DISABILITIES

The Americans with Disabilities Act, 1990, U.S. Department of Justice, Civil Rights Division.

MINIMUM WAGES AND OVERTIME PAY

Handy Reference Guide to the Fair Labor Standards Act, WH Publication 1282, Revised April 1990, U.S. Department of Labor, Wage-Hour Administration.

EQUAL PAY

Equal Work Equal Pay, October 1988, U.S. Equal Employment Opportunity Commission, Office of Communications and Legislative Affairs, Washington, DC 20507.

SEXUAL HARASSMENT

Facts About Sexual Harassment, U.S. Equal Employment Opportunity Commission, Office of Communications and Legislative Affairs, Washington, DC 20507.

MATERNITY LEAVE/PREGNANCY DISCRIMINATION

Pregnancy and Employment: Federal and State Legal Requirements, Fact Sheet No. 87-1, 1987, U.S. Department of Labor, Women's Bureau.

State Maternity/Parental Leave Laws, No. 90-1, June 1990, U.S. Department of Labor, Women's Bureau.

Fact Sheet on The Pregnancy Discrimination Act, October 1987, U.S. Equal Employment Opportunity Commission, Office of Communications and Legislative Affairs, Washington, DC 20507.

Questions and Answers on the Pregnancy Discrimination Act, U.S. Equal Employment Opportunity Commission, Office of Communications and Legislative Affairs, Washington, DC 20507.

OCCUPATIONAL SAFETY AND HEALTH

All About OSHA, OSHA 2056, 1990 (revised), U.S. Department of Labor, Occupational Safety and Health Administration.

Working Safely with Video Display Terminals, OSHA 3092, 1991 (revised), U.S. Department of Labor, Occupational Safety and Health Administration.

UNION PARTICIPATION AND OTHER PROTECTED ACTIVITIES

A Guide To Basic Law and Procedure Under the National Labor Relations Act, 1990, National Labor Relations Board, Division of Information, Washington, DC 20570.

SOCIAL SECURITY

Understanding Social Security, SSA Publication No. 05-10024, January 1991, U.S. Department of Health and Human Services, Social Security Administration. For a copy of the publication contact your local Social Security office or call 1-800-234-5772.

PENSIONS

What You Should Know About the Pension Law, May 1988, U.S. Department of Labor, Pension and Welfare Benefits Administration, Division of Public Information.

VETERANS

Federal Benefits for Veterans and Dependents, January 1991, U.S. Department of Veterans Affairs, Office of Public Affairs.

Women Are Veterans, Too! U.S. Department of Veterans Affairs, Office of Public Affairs.

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